

**ALCOHOLIC BEVERAGE CONTROL ACT -  
MODIFICATIONS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: James A. Dunnigan

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**LONG TITLE**

**Committee Note:**

The Business and Labor Interim Committee recommended this bill.

**General Description:**

This bill modifies the Alcoholic Beverage Control Act to correct omissions or errors made as part of the recodification of that act.

**Highlighted Provisions:**

This bill:

- ▶ reorders language;
- ▶ corrects or clarifies terminology, including defining the term "container";
- ▶ clarifies a formula related to the Alcoholic Beverage Enforcement and Treatment

Restricted Account;

- ▶ clarifies references to specific licenses or sublicenses;
- ▶ relocates a provision addressing advertising;
- ▶ makes the provision related to a package agency posting a bond more consistent

with other bond requirements in the act; and

- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



28 This bill takes effect on July 1, 2011.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **32B-1-102 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

32 **32B-1-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

33 **32B-1-306 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

34 **32B-1-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

35 **32B-1-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

36 **32B-2-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

37 **32B-2-402 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276 and

38 amended by Laws of Utah 2010, Chapter 276, Coordination Clause

39 **32B-2-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

40 **32B-2-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

41 **32B-2-504 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

42 **32B-2-601 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

43 **32B-2-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

44 **32B-2-604 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

45 **32B-2-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

46 **32B-2-606 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

47 **32B-3-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

48 **32B-3-307 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

49 **32B-4-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

50 **32B-4-206 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

51 **32B-4-208 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

52 **32B-4-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

53 **32B-4-420 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

54 **32B-4-422 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

55 **32B-4-507 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

56 **32B-4-704 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

57 **32B-4-705 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

58 **32B-5-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

- 59           **32B-5-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 60           **32B-5-307 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 61           **32B-5-308 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 62           **32B-6-205 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 63           **32B-6-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 64           **32B-6-405 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 65           **32B-6-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 66           **32B-6-706 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 67           **32B-7-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 68           **32B-8-401 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 69           **32B-9-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 70           **32B-9-302 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 71           **32B-9-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 72           **32B-10-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 73           **32B-11-608 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

74 RENUMBERS AND AMENDS:

75           **32B-1-206**, (Renumbered from 32B-4-510 (Effective 07/01/11), as enacted by Laws of  
76 Utah 2010, Chapter 276)



78 *Be it enacted by the Legislature of the state of Utah:*

79           Section 1. Section **32B-1-102 (Effective 07/01/11)** is amended to read:

80           **32B-1-102 (Effective 07/01/11). Definitions.**

81           As used in this title:

82           (1) "Airport lounge" means a business location:

83           (a) at which an alcoholic product is sold at retail for consumption on the premises; and

84           (b) that is located at an international airport with a United States Customs office on the  
85 premises of the international airport.

86           (2) "Airport lounge license" means a license issued in accordance with Chapter 5,  
87 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

88           (3) "Alcoholic beverage" means the following:

89           (a) beer; or

- 90 (b) liquor.
- 91 (4) (a) "Alcoholic product" means a product that:
- 92 (i) contains at least .5% of alcohol by volume; and
- 93 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
- 94 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
- 95 in an amount equal to or greater than .5% of alcohol by volume.
- 96 (b) "Alcoholic product" includes an alcoholic beverage.
- 97 (c) "Alcoholic product" does not include any of the following common items that
- 98 otherwise come within the definition of an alcoholic product:
- 99 (i) except as provided in Subsection (4)(d), an extract;
- 100 (ii) vinegar;
- 101 (iii) cider;
- 102 (iv) essence;
- 103 (v) tincture;
- 104 (vi) food preparation; or
- 105 (vii) an over-the-counter medicine.
- 106 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 107 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 108 (5) "Alcohol training and education seminar" means a seminar that is:
- 109 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 110 (b) described in Section 62A-15-401.
- 111 (6) "Banquet" means an event:
- 112 (a) that is held at one or more designated locations approved by the commission in or
- 113 on the premises of a:
- 114 (i) hotel;
- 115 (ii) resort facility;
- 116 (iii) sports center; or
- 117 (iv) convention center;
- 118 (b) for which there is a contract:
- 119 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
- 120 and

121 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to  
122 provide an alcoholic product at the event; and

123 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.

124 (7) (a) Subject to Subsection (7)(b), "bar" means a counter or similar structure:

125 (i) at which an alcoholic product is:

126 (A) stored; or

127 (B) dispensed; or

128 (ii) from which an alcoholic product is served.

129 (b) For purposes of a full-service restaurant license or a limited-service restaurant  
130 license, "bar structure" means a surface or structure on the premises of a restaurant if on or at  
131 any place of the surface or structure an alcoholic product is:

132 (i) stored; or

133 (ii) dispensed.

134 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:

135 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by  
136 volume or 3.2% by weight; and

137 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

138 (b) "Beer" may or may not contain hops or other vegetable products.

139 (c) "Beer" includes a product that:

140 (i) contains alcohol in the percentages described in Subsection (8)(a); and

141 (ii) is referred to as:

142 (A) beer;

143 (B) ale;

144 (C) porter;

145 (D) stout;

146 (E) lager; or

147 (F) a malt or malted beverage.

148 (d) "Beer" does not include a flavored malt beverage.

149 (9) "Beer retailer" means a business:

150 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,  
151 whether for consumption on or off the business premises; and

- 152 (b) to whom a license is issued:
- 153 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
- 154 Beer Retailer Local Authority; or
- 155 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
- 156 and Chapter 6, Part 7, On-premise Beer Retailer License.
- 157 (10) "Beer wholesaling license" means a license:
- 158 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 159 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 160 retail licensees or off-premise beer retailers.
- 161 (11) "Billboard" means a public display used to advertise, including:
- 162 (a) a light device;
- 163 (b) a painting;
- 164 (c) a drawing;
- 165 (d) a poster;
- 166 (e) a sign;
- 167 (f) a signboard; or
- 168 (g) a scoreboard.
- 169 (12) "Brewer" means a person engaged in manufacturing:
- 170 (a) beer;
- 171 (b) heavy beer; or
- 172 (c) a flavored malt beverage.
- 173 (13) "Brewery manufacturing license" means a license issued in accordance with
- 174 Chapter 11, Part 5, Brewery Manufacturing License.
- 175 (14) "Certificate of approval" means a certificate of approval obtained from the
- 176 department under Subsection 32B-11-201(4).
- 177 (15) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 178 a bus company to a group of persons pursuant to a common purpose:
- 179 (a) under a single contract;
- 180 (b) at a fixed charge in accordance with the bus company's tariff; and
- 181 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 182 motor vehicle, and a driver to travel together to one or more specified destinations.

- 183 (16) "Church" means a building:  
184 (a) set apart for worship;  
185 (b) in which religious services are held;  
186 (c) with which clergy is associated; and  
187 (d) that is tax exempt under the laws of this state.
- 188 (17) (a) "Club license" means a license issued in accordance with Chapter 5, Retail  
189 License Act, and Chapter 6, Part 4, Club License.
- 190 (b) "Club license" includes:  
191 (i) a dining club license;  
192 (ii) an equity club license;  
193 (iii) a fraternal club license; or  
194 (iv) a social club license.
- 195 (18) "Commission" means the Alcoholic Beverage Control Commission created in  
196 Section 32B-2-201.
- 197 (19) "Commissioner" means a member of the commission.
- 198 (20) "Community location" means:  
199 (a) a public or private school;  
200 (b) a church;  
201 (c) a public library;  
202 (d) a public playground; or  
203 (e) a public park.
- 204 (21) "Community location governing authority" means:  
205 (a) the governing body of the community location; or  
206 (b) if the commission does not know who is the governing body of a community  
207 location, a person who appears to the commission to have been given on behalf of the  
208 community location the authority to prohibit an activity at the community location.
- 209 (22) "Container" means a receptacle that contains an alcoholic product, including:  
210 (a) a bottle;  
211 (b) a vessel; or  
212 (c) a similar item.
- 213 [~~22~~] (23) "Convention center" means a facility that is:

214 (a) in total at least 30,000 square feet; and

215 (b) otherwise defined as a "convention center" by the commission by rule.

216 ~~[(23)]~~ (24) For purposes of a full-service restaurant license or limited-service restaurant  
217 license:

218 (a) subject to Subsection ~~[(23)]~~ (24)(b), "counter" means a surface or structure in a  
219 dining area of a restaurant where seating is provided to a patron for service of food; and

220 (b) "counter" does not include a surface or structure if on or at any point of the surface  
221 or structure an alcoholic product is:

222 (i) stored; or

223 (ii) dispensed.

224 ~~[(24)]~~ (25) "Department" means the Department of Alcoholic Beverage Control created  
225 in Section 32B-2-203.

226 ~~[(25)]~~ (26) "Department compliance officer" means an individual who is:

227 (a) an auditor or inspector; and

228 (b) employed by the department.

229 ~~[(26)]~~ (27) "Department sample" means liquor that is placed in the possession of the  
230 department for testing, analysis, and sampling.

231 ~~[(27)]~~ (28) "Dining club license" means a license issued in accordance with Chapter 5,  
232 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission  
233 as a dining club license.

234 ~~[(28)]~~ (29) "Director," unless the context requires otherwise, means the director of the  
235 department.

236 ~~[(29)]~~ (30) "Disciplinary proceeding" means an adjudicative proceeding permitted  
237 under this title:

238 (a) against a person subject to administrative action; and

239 (b) that is brought on the basis of a violation of this title.

240 ~~[(30)]~~ (31) For purposes of a full-service restaurant license or a limited-service  
241 restaurant license, "dispense" means:

242 (a) drawing of an alcoholic product:

243 (i) from an area where it is stored; or

244 (ii) as provided in Subsection 32B-6-205(12)(b)(ii) or 32B-6-305(12)(b)(ii); and

245 (b) using the alcoholic product described in Subsection [~~(29)~~] (30)(a) on the premises  
246 of the restaurant to mix or prepare an alcoholic product to be furnished to a patron of the  
247 restaurant.

248 [~~(31)~~] (32) "Distillery manufacturing license" means a license issued in accordance  
249 with Chapter 11, Part 4, Distillery Manufacturing License.

250 [~~(32)~~] (33) "Distressed merchandise" means an alcoholic product in the possession of  
251 the department that is saleable, but for some reason is unappealing to the public.

252 [~~(33)~~] (34) "Educational facility" includes:

- 253 (a) a nursery school;
- 254 (b) an infant day care center; and
- 255 (c) a trade and technical school.

256 [~~(34)~~] (35) "Equity club license" means a license issued in accordance with Chapter 5,  
257 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission  
258 as an equity club license.

259 [~~(35)~~] (36) "Event permit" means:

- 260 (a) a single event permit; or
- 261 (b) a temporary beer event permit.

262 [~~(36)~~] (37) (a) "Flavored malt beverage" means a beverage:

- 263 (i) that contains at least .5% alcohol by volume;
- 264 (ii) that is treated by processing, filtration, or another method of manufacture that is not  
265 generally recognized as a traditional process in the production of a beer as described in 27  
266 C.F.R. Sec. 25.55;

267 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop  
268 extract; and

269 (iv) (A) for which the producer is required to file a formula for approval with the  
270 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

271 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

272 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

273 [~~(37)~~] (38) "Fraternal club license" means a license issued in accordance with Chapter  
274 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the  
275 commission as a fraternal club license.

276            [~~(38)~~] (39) "Full-service restaurant license" means a license issued in accordance with  
277 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.

278            [~~(39)~~] (40) (a) "Furnish" means by any means to provide with, supply, or give an  
279 individual an alcoholic product, by sale or otherwise.

280            (b) "Furnish" includes to:

281            (i) serve;

282            (ii) deliver; or

283            (iii) otherwise make available.

284            [~~(40)~~] (41) "Guest" means an individual who meets the requirements of Subsection  
285 32B-6-407(9).

286            [~~(41)~~] (42) "Health care practitioner" means:

287            (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

288            (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

289            (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

290            (d) a physical therapist licensed under Title 58, Chapter 24b, Physical [Therapist]

291 Therapy Practice Act;

292            (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,  
293 Nurse Practice Act;

294            (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy  
295 Practice Act;

296            (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational  
297 Therapy Practice Act;

298            (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

299            (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health  
300 Professional Practice Act;

301            (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

302            (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical  
303 Practice Act;

304            (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental  
305 Hygienist Practice Act; and

306            (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

307            [~~(42)~~] (43) (a) "Heavy beer" means a product that:  
308            (i) contains more than 4% alcohol by volume; and  
309            (ii) is obtained by fermentation, infusion, or decoction of malted grain.  
310            (b) "Heavy beer" is considered liquor for the purposes of this title.  
311            [~~(43)~~] (44) "Hotel" is as defined by the commission by rule.  
312            [~~(44)~~] (45) "Identification card" means an identification card issued under Title 53,  
313 Chapter 3, Part 8, Identification Card Act.  
314            [~~(45)~~] (46) "Industry representative" means an individual who is compensated by  
315 salary, commission, or other means for representing and selling an alcoholic product of a  
316 manufacturer, supplier, or importer of liquor.  
317            [~~(46)~~] (47) "Industry representative sample" means liquor that is placed in the  
318 possession of the department for testing, analysis, and sampling by a local industry  
319 representative on the premises of the department to educate the local industry representative of  
320 the quality and characteristics of the product.  
321            [~~(47)~~] (48) "Interdicted person" means a person to whom the sale, offer for sale, or  
322 furnishing of an alcoholic product is prohibited by:  
323            (a) law; or  
324            (b) court order.  
325            [~~(48)~~] (49) "Intoxicated" means that a person:  
326            (a) is significantly impaired as to the person's mental or physical functions as a result of  
327 the use of:  
328            (i) an alcoholic product;  
329            (ii) a controlled substance;  
330            (iii) a substance having the property of releasing toxic vapors; or  
331            (iv) a combination of Subsections [~~(48)~~] (49)(a)(i) through (iii); and  
332            (b) exhibits plain and easily observed outward manifestations of behavior or physical  
333 signs produced by the over consumption of an alcoholic product.  
334            [~~(49)~~] (50) "Investigator" means an individual who is:  
335            (a) a department compliance officer; or  
336            (b) a nondepartment enforcement officer.  
337            [~~(50)~~] (51) "Invitee" is as defined in Section 32B-8-102.

338            [~~51~~] (52) "License" means:  
339            (a) a retail license;  
340            (b) a license issued in accordance with Chapter 11, Manufacturing and Related  
341 Licenses Act;  
342            (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;  
343 or  
344            (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.  
345            [~~52~~] (53) "Licensee" means a person who holds a license.  
346            [~~53~~] (54) "Limited-service restaurant license" means a license issued in accordance  
347 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.  
348            [~~54~~] (55) "Limousine" means a motor vehicle licensed by the state or a local  
349 authority, other than a bus or taxicab:  
350            (a) in which the driver and a passenger are separated by a partition, glass, or other  
351 barrier;  
352            (b) that is provided by a business entity to one or more individuals at a fixed charge in  
353 accordance with the business entity's tariff; and  
354            (c) to give the one or more individuals the exclusive use of the limousine and a driver  
355 to travel to one or more specified destinations.  
356            [~~55~~] (56) (a) (i) "Liquor" means a liquid that:  
357            (A) is:  
358            (I) alcohol;  
359            (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;  
360            (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or  
361            (IV) other drink or drinkable liquid; and  
362            (B) (I) contains at least .5% alcohol by volume; and  
363            (II) is suitable to use for beverage purposes.  
364            (ii) "Liquor" includes:  
365            (A) heavy beer;  
366            (B) wine; and  
367            (C) a flavored malt beverage.  
368            (b) "Liquor" does not include beer.

369            [~~(56)~~] (57) "Liquor Control Fund" means the enterprise fund created by Section  
370 32B-2-301.

371            [~~(57)~~] (58) "Liquor warehousing license" means a license that is issued:

372            (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

373            (b) to a person, other than a licensed manufacturer, who engages in the importation for  
374 storage, sale, or distribution of liquor regardless of amount.

375            [~~(58)~~] (59) "Local authority" means:

376            (a) for premises that are located in an unincorporated area of a county, the governing  
377 body of a county; or

378            (b) for premises that are located in an incorporated city or a town, the governing body  
379 of the city or town.

380            [~~(59)~~] (60) "Lounge or bar area" is as defined by rule made by the commission.

381            [~~(60)~~] (61) "Manufacture" means to distill, brew, rectify, mix, compound, process,  
382 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to  
383 others.

384            [~~(61)~~] (62) "Member" means an individual who, after paying regular dues, has full  
385 privileges in an equity club licensee or fraternal club licensee.

386            [~~(62)~~] (63) (a) "Military installation" means a base, air field, camp, post, station, yard,  
387 center, or homeport facility for a ship:

388            (i) (A) under the control of the United States Department of Defense; or

389            (B) of the National Guard;

390            (ii) that is located within the state; and

391            (iii) including a leased facility.

392            (b) "Military installation" does not include a facility used primarily for:

393            (i) civil works;

394            (ii) a rivers and harbors project; or

395            (iii) a flood control project.

396            [~~(63)~~] (64) "Minor" means an individual under the age of 21 years.

397            [~~(64)~~] (65) "Nondepartment enforcement agency" means an agency that:

398            (a) (i) is a state agency other than the department; or

399            (ii) is an agency of a county, city, or town; and

400 (b) has a responsibility to enforce one or more provisions of this title.  
401 ~~[(65)]~~ (66) "Nondepartment enforcement officer" means an individual who is:  
402 (a) a peace officer, examiner, or investigator; and  
403 (b) employed by a nondepartment enforcement agency.  
404 ~~[(66)]~~ (67) (a) "Off-premise beer retailer" means a beer retailer who is:  
405 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local  
406 Authority; and  
407 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's  
408 premises.  
409 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.  
410 ~~[(67)]~~ (68) "On-premise banquet license" means a license issued in accordance with  
411 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.  
412 ~~[(68)]~~ (69) "On-premise beer retailer" means a beer retailer who is:  
413 (a) authorized to sell, offer for sale, or furnish beer under a license issued in  
414 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer  
415 Retailer License; and  
416 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's  
417 premises, regardless of whether the beer retailer sells beer for consumption off the licensed  
418 premises.  
419 ~~[(69) "Package" means any of the following containing an alcoholic product:]~~  
420 ~~[(a) a container;]~~  
421 ~~[(b) a bottle;]~~  
422 ~~[(c) a vessel; or]~~  
423 ~~[(d) other receptacle.]~~  
424 (70) "Package agency" means a retail liquor location operated:  
425 (a) under an agreement with the department; and  
426 (b) by a person:  
427 (i) other than the state; and  
428 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package  
429 Agency, to sell packaged liquor for consumption off the premises of the package agency.  
430 (71) "Package agent" means a person who holds a package agency.

431 (72) "Patron" means an individual to whom food, beverages, or services are sold,  
432 offered for sale, or furnished, or who consumes an alcoholic product including:

- 433 (a) a customer;
- 434 (b) a member;
- 435 (c) a guest;
- 436 (d) an attendee of a banquet or event;
- 437 (e) an individual who receives room service;
- 438 (f) a resident of a resort;
- 439 (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

440 or

- 441 (h) an invitee.

442 (73) "Permittee" means a person issued a permit under:

- 443 (a) Chapter 9, Event Permit Act; or
- 444 (b) Chapter 10, Special Use Permit Act.

445 (74) "Person subject to administrative action" means:

- 446 (a) a licensee;
- 447 (b) a permittee;
- 448 (c) a manufacturer;
- 449 (d) a supplier;
- 450 (e) an importer;
- 451 (f) an out-of-state brewer holding a certificate of approval; or
- 452 (g) staff of:
- 453 (i) a person listed in Subsections (74)(a) through (g); or
- 454 (ii) a package agent.

455 (75) "Premises" means a building, enclosure, or room used in connection with the  
456 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,  
457 unless otherwise defined in this title or rules made by the commission.

458 (76) "Prescription" means an order issued by a health care practitioner when:

- 459 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,  
460 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 461 (b) the order is made in the course of that health care practitioner's professional

462 practice; and

463 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

464 (77) (a) "Private event" means a specific social, business, or recreational event:

465 (i) for which an entire room, area, or hall is leased or rented in advance by an identified  
466 group; and

467 (ii) that is limited in attendance to people who are specifically designated and their  
468 guests.

469 (b) "Private event" does not include an event to which the general public is invited,  
470 whether for an admission fee or not.

471 (78) (a) "Proof of age" means:

472 (i) an identification card;

473 (ii) an identification that:

474 (A) is substantially similar to an identification card;

475 (B) is issued in accordance with the laws of a state other than Utah in which the  
476 identification is issued;

477 (C) includes date of birth; and

478 (D) has a picture affixed;

479 (iii) a valid driver license certificate that:

480 (A) includes date of birth;

481 (B) has a picture affixed; and

482 (C) is issued:

483 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

484 (II) in accordance with the laws of the state in which it is issued;

485 (iv) a military identification card that:

486 (A) includes date of birth; and

487 (B) has a picture affixed; or

488 (v) a valid passport.

489 (b) "Proof of age" does not include a driving privilege card issued in accordance with  
490 Section 53-3-207.

491 (79) (a) "Public building" means a building or permanent structure that is:

492 (i) owned or leased by:

- 493 (A) the state; or
- 494 (B) a local government entity; and
- 495 (ii) used for:
  - 496 (A) public education;
  - 497 (B) transacting public business; or
  - 498 (C) regularly conducting government activities.
- 499 (b) "Public building" does not include a building owned by the state or a local
- 500 government entity when the building is used by a person, in whole or in part, for a proprietary
- 501 function.
- 502 (80) "Public conveyance" means a conveyance to which the public or a portion of the
- 503 public has access to and a right to use for transportation, including an airline, railroad, bus,
- 504 boat, or other public conveyance.
- 505 (81) (a) "Record" means information that is:
  - 506 (i) inscribed on a tangible medium; or
  - 507 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 508 (b) "Record" includes:
  - 509 (i) a book;
  - 510 (ii) a book of account;
  - 511 (iii) a paper;
  - 512 (iv) a contract;
  - 513 (v) an agreement;
  - 514 (vi) a document; or
  - 515 (vii) a recording in any medium.
- 516 (82) "Residence" means a person's principal place of abode within Utah.
- 517 (83) "Resident," in relation to a resort, is as defined in Section 32B-8-102.
- 518 (84) "Resort" is as defined in Section 32B-8-102.
- 519 (85) "Resort facility" is as defined by the commission by rule.
- 520 (86) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 521 License Act, and Chapter 8, Resort License Act.
- 522 (87) "Restaurant" means a business location:
  - 523 (a) at which a variety of foods are prepared;

- 524 (b) at which complete meals are served to the general public; and
- 525 (c) that is engaged primarily in serving meals to the general public.
- 526 (88) "Retail license" means one of the following licenses issued under this title:
- 527 (a) a full-service restaurant license;
- 528 (b) a limited-service restaurant license;
- 529 (c) a club license;
- 530 (d) an airport lounge license;
- 531 (e) an on-premise banquet license; or
- 532 (f) an on-premise beer license.
- 533 (89) "Room service" means furnishing an alcoholic product to a person in a guest room
- 534 of a:
- 535 (a) hotel; or
- 536 (b) resort facility.
- 537 (90) "Serve" means to place an alcoholic product before an individual.
- 538 (91) (a) "School" means a building used primarily for the general education of minors.
- 539 (b) "School" does not include an educational facility.
- 540 (92) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
- 541 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
- 542 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
- 543 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
- 544 made by the commission.
- 545 (93) "Sexually oriented entertainer" means a person who while in a state of seminudity
- 546 appears at or performs:
- 547 (a) for the entertainment of one or more patrons;
- 548 (b) on the premises of:
- 549 (i) a social club licensee; or
- 550 (ii) a tavern;
- 551 (c) on behalf of or at the request of the licensee described in Subsection (93)(b);
- 552 (d) on a contractual or voluntary basis; and
- 553 (e) whether or not the person is designated as:
- 554 (i) an employee;

- 555 (ii) an independent contractor;
- 556 (iii) an agent of the licensee; or
- 557 (iv) a different type of classification.
- 558 (94) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3,
- 559 Single Event Permit.
- 560 (95) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 561 beer, heavy beer, and flavored malt beverages per year.
- 562 (96) "Social club license" means a license issued in accordance with Chapter 5, Retail
- 563 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
- 564 social club license.
- 565 (97) "Special use permit" means a permit issued in accordance with Chapter 10,
- 566 Special Use Permit Act.
- 567 (98) (a) "Spirituous liquor" means liquor that is distilled.
- 568 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
- 569 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 570 (99) "Sports center" is as defined by the commission by rule.
- 571 (100) (a) "Staff" means an individual who engages in activity governed by this title:
- 572 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
- 573 holder;
- 574 (ii) at the request of the business, including a package agent, licensee, permittee, or
- 575 certificate holder; or
- 576 (iii) under the authority of the business, including a package agent, licensee, permittee,
- 577 or certificate holder.
- 578 (b) "Staff" includes:
- 579 (i) an officer;
- 580 (ii) a director;
- 581 (iii) an employee;
- 582 (iv) personnel management;
- 583 (v) an agent of the licensee, including a managing agent;
- 584 (vi) an operator; or
- 585 (vii) a representative.

586 (101) "State of nudity" means:

587 (a) the appearance of:

588 (i) the nipple or areola of a female human breast;

589 (ii) a human genital;

590 (iii) a human pubic area; or

591 (iv) a human anus; or

592 (b) a state of dress that fails to opaquely cover:

593 (i) the nipple or areola of a female human breast;

594 (ii) a human genital;

595 (iii) a human pubic area; or

596 (iv) a human anus.

597 (102) "State of seminudity" means a state of dress in which opaque clothing covers no  
598 more than:

599 (a) the nipple and areola of the female human breast in a shape and color other than the  
600 natural shape and color of the nipple and areola; and

601 (b) the human genitals, pubic area, and anus:

602 (i) with no less than the following at its widest point:

603 (A) four inches coverage width in the front of the human body; and

604 (B) five inches coverage width in the back of the human body; and

605 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

606 (103) (a) "State store" means a facility for the sale of packaged liquor:

607 (i) located on premises owned or leased by the state; and

608 (ii) operated by a state employee.

609 (b) "State store" does not include:

610 (i) a package agency;

611 (ii) a licensee; or

612 (iii) a permittee.

613 (104) For purposes of a full-service restaurant license or a limited-service restaurant  
614 license:

615 (a) "Storage area" means an area on licensed premises where the licensee stores an  
616 alcoholic product.

617 (b) "Store" means to place or maintain in a location an alcoholic product from which a  
618 person draws to prepare an alcoholic product to be furnished to a patron of the restaurant,  
619 except as provided in Subsection 32B-6-205(12)(b)(ii) or 32B-6-305(12)(b)(ii).

620 (105) "Sublicense" is as defined in Section 32B-8-102.

621 (106) "Supplier" means a person who sells an alcoholic product to the department.

622 (107) "Tavern" means an on-premise beer retailer who is:

623 (a) issued a license by the commission in accordance with Chapter 5, Retail License  
624 Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and

625 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,  
626 On-premise Beer Retailer License.

627 (108) "Temporary beer event permit" means a permit issued in accordance with  
628 Chapter 9, Part 4, Temporary Beer Event Permit.

629 (109) "Temporary domicile" means the principal place of abode within Utah of a  
630 person who does not have a present intention to continue residency within Utah permanently or  
631 indefinitely.

632 (110) "Unsaleable liquor merchandise" means a [~~package~~] container that:

633 (a) is unsaleable because the [~~package~~] container is:

634 (i) unlabeled;

635 (ii) leaky;

636 (iii) damaged;

637 (iv) difficult to open; or

638 (v) partly filled;

639 (b) (i) has faded labels or defective caps or corks;

640 (ii) has contents that are:

641 (A) cloudy;

642 (B) spoiled; or

643 (C) chemically determined to be impure; or

644 (iii) contains:

645 (A) sediment; or

646 (B) a foreign substance; or

647 (c) is otherwise considered by the department as unfit for sale.

648 (111) (a) "Wine" means an alcoholic product obtained by the fermentation of the  
649 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not  
650 another ingredient is added.

651 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided  
652 in this title.

653 (112) "Winery manufacturing license" means a license issued in accordance with  
654 Chapter 11, Part 3, Winery Manufacturing License.

655 Section 2. Section **32B-1-203 (Effective 07/01/11)** is amended to read:

656 **32B-1-203 (Effective 07/01/11). Licensee compliance with other laws.**

657 (1) A licensee and a person applying for a license shall comply with the applicable  
658 federal and state laws pertaining to payment of taxes and contributions to unemployment and  
659 insurance funds to which the licensee or person may be subject.

660 (2) The commission:

661 (a) may not issue a license to a person who violates this section; and

662 (b) may [~~not renew;~~] suspend, [~~or~~] revoke, or not renew the license of a licensee who  
663 violates this section.

664 Section 3. Section **32B-1-206**, which is renumbered from Section 32B-4-510 (Effective  
665 07/01/11) is renumbered and amended to read:

666 [~~32B-4-510 (Effective 07/01/11)]. **32B-1-206. Advertising prohibited --**~~

667 **Exceptions.**

668 (1) (a) The department may not advertise liquor, except:

669 (i) the department may provide for an appropriate sign in the window or on the front of  
670 a state store or package agency denoting that it is a state authorized liquor retail facility;

671 (ii) the department or a package agency may provide a printed price [~~lists~~] list to the  
672 public;

673 (iii) the department may authorize the use of price posting and floor stacking of liquor  
674 within a state store;

675 (iv) subject to Subsection (1)(b), the department may provide a listing of the address  
676 and telephone number of a state store in one or more printed or electronic directories available  
677 to the general public; and

678 (v) subject to Subsection (1)(b), a package agency may provide a listing of its address

679 and telephone number in one or more printed or electronic directories available to the general  
680 public.

681 (b) A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a  
682 telephone directory may not be displayed in an advertisement or other promotional format.

683 (2) (a) The department may not advertise an alcoholic product on a billboard.

684 (b) A package agency may not advertise an alcoholic product on a billboard, except to  
685 the extent allowed by the commission by rule.

686 (3) (a) The department may not display liquor or a price [~~lists~~] list in a window or  
687 showcase visible to passersby.

688 (b) A package agency may not display liquor or a price [~~lists~~] list in a window or  
689 showcase visible to passersby, except to the extent allowed by the commission by rule.

690 (4) Except to the extent prohibited by this title, the advertising of an alcoholic product  
691 is allowed under guidelines established by the commission by rule.

692 (5) The advertising or use of any means or media to offer an alcoholic product to the  
693 general public without charge is prohibited.

694 Section 4. Section **32B-1-306 (Effective 07/01/11)** is amended to read:

695 **32B-1-306 (Effective 07/01/11). Use of information from a criminal background**  
696 **check.**

697 The commission or department may use information obtained pursuant to Section  
698 32B-1-305 only for one or more of the following purposes:

699 (1) enforcing this title;

700 (2) determining whether an individual is convicted of any of the following offenses  
701 that disqualify the individual under this title from acting in a capacity described in Subsection  
702 32B-1-305(2):

703 (a) a felony under federal law or state law;

704 (b) a violation of a federal law, state law, or local ordinance concerning the sale, offer  
705 for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic  
706 product;

707 (c) a crime involving moral turpitude; or

708 (d) on two or more occasions within the previous five years, driving under the  
709 influence of alcohol, drugs, or the combined influence of alcohol and drugs;

710 (3) determining whether an individual fails to accurately disclose the [person's]  
711 individual's criminal history on an application or document filed with the department or  
712 commission;

713 (4) approving or denying an application for employment with the department;

714 (5) taking disciplinary action against a department employee, including possible  
715 termination of employment;

716 (6) issuing or denying an application to operate a package agency;

717 (7) issuing or denying an application for a license;

718 (8) issuing or denying the renewal of a package agency agreement;

719 (9) issuing or denying the renewal of a license;

720 (10) suspending the operation of a package agency;

721 (11) terminating a package agency contract; or

722 (12) suspending or revoking a license.

723 Section 5. Section **32B-1-602 (Effective 07/01/11)** is amended to read:

724 **32B-1-602 (Effective 07/01/11). Definitions.**

725 As used in this part:

726 (1) "Malted beverage" means:

727 (a) beer;

728 (b) a flavored malt beverage; and

729 (c) heavy beer.

730 (2) "Packaging" means the outer packaging that is visible to a consumer such as a  
731 carton, case, or other wrapper of a [~~package~~] container.

732 Section 6. Section **32B-1-605 (Effective 07/01/11)** is amended to read:

733 **32B-1-605 (Effective 07/01/11). General procedure for approval.**

734 (1) To obtain approval of the label and packaging of a malted beverage, the  
735 manufacturer of the malted beverage shall submit an application to the department for  
736 approval.

737 (2) The application described in Subsection (1) shall be on a form approved by the  
738 department and include the following:

739 (a) a copy of a federal certificate of label approval from the Department of Treasury,  
740 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking

741 approval;

742 (b) a complete set of original labels for each size of [package] container of the malted  
743 beverage;

744 (c) a description of the size of the [package] container on which a label will be placed;

745 (d) a description of each type of [package] container of the malted beverage; and

746 (e) a description of any packaging for the malted beverage.

747 (3) The department may assess a reasonable fee for reviewing a label and packaging for  
748 approval.

749 (4) (a) The department shall notify a manufacturer within 30 days after the day on  
750 which the manufacturer submits an application whether the label and packaging is approved or  
751 denied.

752 (b) If the department determines that an unusual circumstance requires additional time,  
753 the department may extend the time period described in Subsection (4)(a).

754 (5) A manufacturer shall obtain the approval of the department of a revision of a  
755 previously approved label and packaging before a malted beverage using the revised label and  
756 packaging may be distributed or sold in this state.

757 (6) (a) The department may revoke a label and packaging previously approved upon a  
758 finding that the label and packaging is not in compliance with this title or rules of the  
759 commission.

760 (b) The department shall notify the person who applies for the approval of a label and  
761 packaging at least five business days before the day on which a label and packaging approval is  
762 considered revoked.

763 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written  
764 argument or evidence to the department on why the revocation should not occur.

765 (7) A manufacturer that applies for approval of a label and packaging may appeal a  
766 denial or revocation of a label and packaging approval to the commission.

767 Section 7. Section **32B-2-303 (Effective 07/01/11)** is amended to read:

768 **32B-2-303 (Effective 07/01/11). Purchase of liquor.**

769 (1) The department may not purchase or stock spirituous liquor in a [package]  
770 container smaller than 200 milliliters, except as otherwise allowed by the commission.

771 (2) (a) An order by the department for the purchase of liquor, or a cancellation by the

772 department of an order of liquor:

773 (i) shall be executed in writing by the department; and

774 (ii) is not valid or binding unless executed in writing.

775 (b) The department shall maintain a copy of an order or cancellation on file for at least

776 three years.

777 (c) An electronic record satisfies Subsections (2)(a) and (b) pursuant to Title 46,

778 Chapter 4, Uniform Electronic Transactions Act.

779 Section 8. Section **32B-2-402 (Effective 07/01/11)** is amended to read:

780 **32B-2-402 (Effective 07/01/11). Definitions -- Calculations.**

781 (1) As used in this part:

782 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted

783 Account created in Section 32B-2-403.

784 (b) "Advisory council" means the Utah Substance Abuse Advisory Council created in

785 Section 63M-7-301.

786 (c) "Alcohol-related offense" means:

787 (i) a violation of:

788 (A) Section 41-6a-502; or

789 (B) an ordinance that complies with the requirements of:

790 (I) Subsection 41-6a-510(1); or

791 (II) Section 76-5-207; or

792 (ii) an offense involving the illegal:

793 (A) sale of an alcoholic product;

794 (B) consumption of an alcoholic product;

795 (C) distribution of an alcoholic product;

796 (D) transportation of an alcoholic product; or

797 (E) possession of an alcoholic product.

798 (d) "Annual conviction time period" means the time period that:

799 (i) begins on July 1 and ends on June 30; and

800 (ii) immediately precedes the fiscal year for which an appropriation under this part is

801 made.

802 (e) "Municipality" means:

803 (i) a city; or

804 (ii) a town.

805 (2) For purposes of ~~[this part]~~ Subsection 32B-2-404(1)(b)(iii), the number of ~~[state~~

806 ~~stores, package agencies, and retail licensees]~~ premises located within the limits of a

807 municipality or county:

808 (a) is the number determined by the department to be so located;

809 (b) includes the aggregate number of premises of the following:

810 (i) a state store;

811 (ii) a package agency; and

812 (iii) a retail licensee~~[-, except for an on-premise beer retailer];~~ and

813 (c) for a county, consists only of the number located within an unincorporated area of

814 the county.

815 (3) The department shall determine:

816 (a) a population figure according to the most current population estimate prepared by

817 the Utah Population Estimates Committee;

818 (b) a county's population for the 25% distribution to municipalities and counties under

819 Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated

820 areas of the county; and

821 (c) a county's population for the 25% distribution to counties under Subsection

822 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of

823 a municipality.

824 (4) (a) A conviction occurs in the municipality or county that actually prosecutes the

825 offense to judgment.

826 (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in

827 the municipality or county that, except for the guilty plea, would have prosecuted the offense.

828 Section 9. Section **32B-2-404 (Effective 07/01/11)** is amended to read:

829 **32B-2-404 (Effective 07/01/11). Alcoholic Beverage Enforcement and Treatment**

830 **Restricted Account distribution.**

831 (1) (a) The money deposited into the account under Section 32B-2-403 shall be

832 distributed to municipalities and counties:

833 (i) to the extent appropriated by the Legislature, except that the Legislature shall

834 appropriate each fiscal year an amount equal to at least the amount deposited in the account in  
835 accordance with Section 59-15-109; and

836 (ii) as provided in this Subsection (1).

837 (b) The amount appropriated from the account shall be distributed as follows:

838 (i) 25% to municipalities and counties on the basis of the percentage of the state  
839 population residing in each municipality and county;

840 (ii) 30% to municipalities and counties on the basis of each municipality's and county's  
841 percentage of the statewide convictions for all alcohol-related offenses;

842 (iii) 20% to municipalities and counties on the basis of the percentage of the [~~state~~  
843 ~~stores, package agencies, liquor licensees, and beer licensees~~] following in the state that are  
844 located in each municipality and county[~~; and~~];

845 (A) state stores;

846 (B) package agencies;

847 (C) retail licensees; and

848 (D) off-premise beer retailers; and

849 (iv) 25% to the counties for confinement and treatment purposes authorized by this part  
850 on the basis of the percentage of the state population located in each county.

851 (c) (i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a law  
852 enforcement agency:

853 (A) the municipality may not receive money under this part; and

854 (B) the State Tax Commission:

855 (I) may not distribute the money the municipality would receive but for the  
856 municipality not having a law enforcement agency to that municipality; and

857 (II) shall distribute the money that the municipality would have received but for it not  
858 having a law enforcement agency to the county in which the municipality is located for use by  
859 the county in accordance with this part.

860 (ii) If the advisory council finds that a municipality described in Subsection (1)(c)(i)  
861 demonstrates that the municipality can use the money that the municipality is otherwise eligible  
862 to receive in accordance with this part, the advisory council may direct the State Tax  
863 Commission to distribute the money to the municipality.

864 (2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax

865 Commission shall annually:

866 (a) for an annual conviction time period:

867 (i) multiply by two the total number of convictions in the state obtained during the  
868 annual conviction time period for violation of:

869 (A) Section 41-6a-502; or

870 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or  
871 Section 76-5-207; and

872 (ii) add to the number calculated under Subsection (2)(a)(i) the number of convictions  
873 obtained during the annual conviction time period for the alcohol-related offenses other than  
874 the alcohol-related offenses described in Subsection (2)(a)(i);

875 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum  
876 obtained in Subsection (2)(a); and

877 (c) multiply the amount calculated under Subsection (2)(b), by the number of  
878 convictions obtained in each municipality and county during the annual conviction time period  
879 for alcohol-related offenses.

880 (3) By not later than September 1 each year:

881 (a) the state court administrator shall certify to the State Tax Commission the number  
882 of convictions obtained for alcohol-related offenses in each municipality or county in the state  
883 during the annual conviction time period; and

884 (b) the advisory council shall notify the State Tax Commission of any municipality that  
885 does not have a law enforcement agency.

886 (4) By not later than December 1 of each year, the advisory council shall notify the  
887 State Tax Commission for the fiscal year of appropriation of:

888 (a) a municipality that may receive a distribution under Subsection (1)(c)(ii);

889 (b) a county that may receive a distribution allocated to a municipality described in  
890 Subsection (1)(c)(i);

891 (c) a municipality or county that may not receive a distribution because the advisory  
892 council has suspended the payment under Subsection 32B-2-405(2)(a); and

893 (d) a municipality or county that receives a distribution because the suspension of  
894 payment has been cancelled under Subsection 32B-2-405(2).

895 (5) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax

896 Commission shall annually distribute to each municipality and county the portion of the  
897 appropriation that the municipality or county is eligible to receive under this part, except for  
898 any municipality or county that the advisory council notifies the State Tax Commission in  
899 accordance with Subsection (4) may not receive a distribution in that fiscal year.

900 (b) (i) The State Tax Commission shall prepare forms for use by a municipality or  
901 county in applying for a distribution under this part.

902 (ii) A form described in this Subsection (5) may require the submission of information  
903 the State Tax Commission considers necessary to enable the State Tax Commission to comply  
904 with this part.

905 Section 10. Section **32B-2-503 (Effective 07/01/11)** is amended to read:

906 **32B-2-503 (Effective 07/01/11). Operational requirements for a state store.**

907 (1) A state store shall display in a prominent place in the store a sign in large letters  
908 stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is  
909 prosecuted aggressively in Utah."

910 (2) A state store may not sell, offer for sale, or furnish liquor except at a price fixed by  
911 the commission.

912 (3) A state store may not sell, offer for sale, or furnish liquor to:

913 (a) a minor;

914 (b) a person actually, apparently, or obviously intoxicated;

915 (c) a known interdicted person; or

916 (d) a known habitual drunkard.

917 (4) (a) A state store employee may not:

918 (i) consume an alcoholic product on the premises of a state store; or

919 (ii) allow any person to consume an alcoholic product on the premises of a state store.

920 (b) A violation of this Subsection (4) is a class B misdemeanor.

921 (5) (a) Sale or delivery of liquor may not be made on or from the premises of a state  
922 store, and a state store may not be kept open for the sale of liquor:

923 (i) on Sunday; or

924 (ii) on a state or federal legal holiday.

925 (b) Sale or delivery of liquor may be made on or from the premises of a state store, and  
926 a state store may be open for the sale of liquor, only on a day and during hours that the

927 commission directs by rule or order.

928 (6) (a) A minor may not be admitted into, or be on the premises of a state store unless  
929 accompanied by a person who is:

930 (i) 21 years of age or older; and

931 (ii) the minor's parent, legal guardian, or spouse.

932 (b) A state store employee that has reason to believe that a person who is on the  
933 premises of a state store is under the age of 21 and is not accompanied by a person described in  
934 Subsection (6)(a) may:

935 (i) ask the suspected minor for proof of age;

936 (ii) ask the person who accompanies the suspected minor for proof of age; and

937 (iii) ask the suspected minor or the person who accompanies the suspected minor for  
938 proof of parental, guardianship, or spousal relationship.

939 (c) A state store employee shall refuse to sell liquor to the suspected minor and to the  
940 person who accompanies the suspected minor into the state store if the suspected minor or  
941 person fails to provide information specified in Subsection (6)(b).

942 (d) A state store employee shall require a suspected minor and the person who  
943 accompanies the suspected minor into the state store to immediately leave the premises of the  
944 state store if the suspected minor or person fails to provide information specified in Subsection  
945 (6)(b).

946 (7) (a) A state store may not sell, offer for sale, or furnish liquor except in a sealed  
947 ~~[package]~~ container.

948 (b) A person may not open a sealed ~~[package]~~ container on the premises of a state  
949 store.

950 Section 11. Section **32B-2-504 (Effective 07/01/11)** is amended to read:

951 **32B-2-504 (Effective 07/01/11). Delivery of liquor to state store.**

952 (1) Liquor to be sold from a state store may be transported from a warehouse  
953 authorized by the department to the state store if transported by a person authorized by the  
954 department to transport the liquor to the state store, including a common carrier.

955 (2) A person, while in or about a vehicle in which liquor is being transported, may not  
956 open, break, or allow to be opened or broken, a ~~[package]~~ container containing liquor.

957 (3) A person may not drink, use, or allow to be drunk or used, liquor while it is in

958 transit under this section.

959 Section 12. Section **32B-2-601 (Effective 07/01/11)** is amended to read:

960 **32B-2-601 (Effective 07/01/11). Commission's power to issue package agency.**

961 (1) (a) The commission may, when the commission considers proper, issue authority to  
962 operate as a package agency by directing the department to enter into a package agency  
963 agreement with a person to sell, offer for sale, or furnish liquor in sealed [~~packages~~] containers  
964 from premises other than those owned or leased by the state.

965 (b) The commission shall authorize a person to operate a package agency by issuing a  
966 record that designates the person in charge of the package agency as a "package agent."

967 (2) (a) Subject to this Subsection (2), the commission may not issue a total number of  
968 package agencies that at any time exceeds the number determined by dividing the population of  
969 the state by 18,000.

970 (b) (i) The commission may issue a seasonal package agency in an area the commission  
971 considers proper.

972 (ii) A seasonal package agency shall be for a period of six consecutive months.

973 (iii) A seasonal package agency issued for operation during a summer time period is  
974 known as a "Seasonal A" package agency. The period of operation for a Seasonal A package  
975 agency shall:

976 (A) begin on May 1; and

977 (B) end on October 31.

978 (iv) A seasonal package agency issued for operation during a winter time period is  
979 known as a "Seasonal B" package agency. The period of operation for a Seasonal B package  
980 agency shall:

981 (A) begin on November 1; and

982 (B) end on April 30.

983 (v) In determining the number of package agencies that the commission may issue  
984 under this section:

985 (A) a seasonal package agency is counted as one-half of one package agency; and

986 (B) each Seasonal A package agency shall be paired with a Seasonal B package agency.

987 (c) (i) If the location, design, and construction of a hotel may require more than one  
988 package agency sales location to serve the public convenience, the commission may authorize a

989 single package agent to sell liquor at as many as three locations within the hotel under one  
990 package agency if:

991 (A) the hotel has a minimum of 150 guest rooms; and

992 (B) all locations under the package agency are:

993 (I) within the same hotel; and

994 (II) on premises that are managed or operated, and owned or leased, by the package  
995 agent.

996 (ii) A facility other than a hotel shall have a separate package agency for each location  
997 where liquor may be sold, offered for sale, or furnished.

998 (3) (a) A package agent, under the direction of the department, is responsible for  
999 implementing and enforcing this title and the rules adopted under this title to the extent this  
1000 title and the rules relate to the conduct of the package agency and a package agency's sale of  
1001 liquor.

1002 (b) A package agent may not be a state employee. A package agent may not be  
1003 construed to be a state employee or otherwise entitled to any benefit of employment from the  
1004 state.

1005 (c) A package agent, when selling liquor from a package agency, is considered an agent  
1006 of the state only to the extent specifically expressed in the package agency agreement.

1007 (4) The commission may prescribe by rule one or more types of package agencies  
1008 issued under this part that are consistent with this title.

1009 Section 13. Section **32B-2-602 (Effective 07/01/11)** is amended to read:

1010 **32B-2-602 (Effective 07/01/11). Application requirements for a package agency.**

1011 (1) Before a person may store, sell, offer for sale, or furnish liquor in a sealed  
1012 [package] container on its premises under a package agency, the person shall first obtain a  
1013 package agency issued by the commission in accordance with this part.

1014 (2) To obtain a package agency, a person seeking to be the package agent under this  
1015 part shall submit to the department:

1016 (a) a written application in a form prescribed by the department;

1017 (b) a nonrefundable application fee of \$100;

1018 (c) written consent of the local authority;

1019 (d) evidence of proximity to any community location, with proximity requirements

1020 being governed by Section 32B-1-202;

1021 (e) a bond as specified by Section 32B-2-604;

1022 (f) a floor plan of the premises, including a description and highlighting of that part of  
1023 the premises in which the person proposes that the package agency be located;

1024 (g) evidence that the package agency is carrying public liability insurance in an amount  
1025 and form satisfactory to the department;

1026 (h) a signed consent form stating that the package agent permits any authorized  
1027 representative of the commission, department, or any law enforcement officer to have  
1028 unrestricted right to enter the premises of the package agency;

1029 (i) if the person applying is an entity, verification that a person who signs the package  
1030 agency application is authorized to sign on behalf of the entity; and

1031 (j) any other information the commission or department may require.

1032 (3) The commission may not issue a package agency to a person who is disqualified  
1033 under Section 32B-1-304.

1034 (4) The commission may not issue a package agency for premises that do not meet the  
1035 proximity requirements of Section 32B-1-202.

1036 Section 14. Section **32B-2-604 (Effective 07/01/11)** is amended to read:

1037 **32B-2-604 (Effective 07/01/11). Bond related to package agency.**

1038 (1) (a) A package agent who has a consignment liquor inventory owned by the state  
1039 shall post a consignment surety bond payable to the department in the amount of the  
1040 consignment inventory.

1041 (b) A consignment surety bond shall be conditioned upon a package agent's return of  
1042 the unsold consignment liquor inventory at the termination of a package agency agreement.

1043 (2) (a) A package agent that owns the package agency's liquor inventory shall post a  
1044 cash bond or surety bond:

1045 (i) in the penal amount fixed by the department, except that the penal amount shall be  
1046 at least \$1,000; and

1047 (ii) payable to the department.

1048 (3) A package agent shall procure and maintain the bond required under this section for  
1049 as long as the package agent continues to operate as a package agent.

1050 (4) A bond required under this section shall be:

1051 (a) in a form approved by the attorney general; and  
1052 (b) conditioned upon the package agent's faithful compliance with this title, the rules of  
1053 the commission, and the package agency agreement.

1054 (5) (a) If a surety bond posted by a package agency under this section is canceled due to  
1055 the package agent's or package agency's negligence, the department may assess a \$300  
1056 reinstatement fee.

1057 (b) No part of a bond posted by a package agent under this section may be withdrawn:

1058 (i) during the period the package agency is in effect; or

1059 (ii) while a revocation of the package agency is pending against the package agent.

1060 (6) (a) A bond posted under this section by a package agent may be forfeited if the  
1061 package agency is revoked.

1062 (b) Notwithstanding Subsection (6)(a), the department may make a claim against a  
1063 bond posted by a package agent for money owed the department under this title without the  
1064 commission first revoking the package agency.

1065 Section 15. Section **32B-2-605 (Effective 07/01/11)** is amended to read:

1066 **32B-2-605 (Effective 07/01/11). Operational requirements for package agency.**

1067 (1) (a) A person may not operate a package agency until a package agency agreement is  
1068 entered into by the package agent and the department.

1069 (b) A package agency agreement shall state the conditions of operation by which the  
1070 package agent and the department are bound.

1071 (c) (i) If a package agent or staff of the package agent violates this title, rules under this  
1072 title, or the package agency agreement, the department may take any action against the package  
1073 agent that is allowed by the package agency agreement.

1074 (ii) An action against a package agent is governed solely by its package agency  
1075 agreement and may include suspension or revocation of the package agency.

1076 (iii) Notwithstanding that this part refers to "package agency" or "package agent," staff  
1077 of the package agency or package agent is subject to the same requirement or prohibition.

1078 (2) (a) A package agency shall be operated by an individual who is either:

1079 (i) the package agent; or

1080 (ii) an individual designated by the package agent.

1081 (b) An individual who is a designee under this Subsection (2) shall be:

- 1082 (i) an employee of the package agent; and
- 1083 (ii) responsible for the operation of the package agency.
- 1084 (c) The conduct of the designee is attributable to the package agent.
- 1085 (d) A package agent shall submit the name of the person operating the package agency
- 1086 to the department for the department's approval.
- 1087 (e) A package agent shall state the name and title of a designee on the application for a
- 1088 package agency.
- 1089 (f) A package agent shall:
- 1090 (i) inform the department of a proposed change in the individual designated to operate
- 1091 a package agency; and
- 1092 (ii) receive prior approval from the department before implementing the change
- 1093 described in this Subsection (2)(f).
- 1094 (g) Failure to comply with the requirements of this Subsection (2) may result in the
- 1095 immediate termination of a package agency agreement.
- 1096 (3) A package agent shall display in a prominent place in the package agency:
- 1097 (a) the record issued by the commission that designates the package agency; and
- 1098 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 1099 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1100 (4) A package agency may not display liquor or a price list in a window or showcase
- 1101 that is visible to passersby.
- 1102 (5) (a) A package agency may not purchase liquor from a person except from the
- 1103 department.
- 1104 (b) At the discretion of the department, liquor may be provided by the department to a
- 1105 package agency for sale on consignment.
- 1106 (6) A package agency may not store, sell, offer for sale, or furnish liquor in a place
- 1107 other than as designated in the package agent's application, unless the package agent first
- 1108 applies for and receives approval from the department for a change of location within the
- 1109 package agency premises.
- 1110 (7) A package agency may not sell, offer for sale, or furnish liquor except at a price
- 1111 fixed by the commission.
- 1112 (8) A package agency may not sell, offer for sale, or furnish liquor to:

- 1113 (a) a minor;
- 1114 (b) a person actually, apparently, or obviously intoxicated;
- 1115 (c) a known interdicted person; or
- 1116 (d) a known habitual drunkard.
- 1117 (9) (a) A package agency may not employ a minor to handle liquor.
- 1118 (b) (i) Staff of a package agency may not:
- 1119 (A) consume an alcoholic product on the premises of a package agency; or
- 1120 (B) allow any person to consume an alcoholic product on the premises of a package
- 1121 agency.
- 1122 (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.
- 1123 (10) (a) A package agency may not close or cease operation for a period longer than 72
- 1124 hours, unless:
- 1125 (i) the package agency notifies the department in writing at least seven days before the
- 1126 closing; and
- 1127 (ii) the closure or cessation of operation is first approved by the department.
- 1128 (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package
- 1129 agency shall immediately notify the department by telephone.
- 1130 (c) (i) The department may authorize a closure or cessation of operation for a period
- 1131 not to exceed 60 days.
- 1132 (ii) The department may extend the initial period an additional 30 days upon written
- 1133 request of the package agency and upon a showing of good cause.
- 1134 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 1135 commission approval.
- 1136 (d) The notice required by Subsection (10)(a) shall include:
- 1137 (i) the dates of closure or cessation of operation;
- 1138 (ii) the reason for the closure or cessation of operation; and
- 1139 (iii) the date on which the package agency will reopen or resume operation.
- 1140 (e) Failure of a package agency to provide notice and to obtain department
- 1141 authorization before closure or cessation of operation results in an automatic termination of the
- 1142 package agency agreement effective immediately.
- 1143 (f) Failure of a package agency to reopen or resume operation by the approved date

1144 results in an automatic termination of the package agency agreement effective on that date.

1145 (11) A package agency may not transfer its operations from one location to another  
1146 location without prior written approval of the commission.

1147 (12) (a) A person, having been issued a package agency, may not sell, transfer, assign,  
1148 exchange, barter, give, or attempt in any way to dispose of the package agency to another  
1149 person, whether for monetary gain or not.

1150 (b) A package agency has no monetary value for any type of disposition.

1151 (13) (a) Subject to the other provisions of this Subsection (13):

1152 (i) sale or delivery of liquor may not be made on or from the premises of a package  
1153 agency, and a package agency may not be kept open for the sale of liquor:

1154 (A) on Sunday; or

1155 (B) on a state or federal legal holiday.

1156 (ii) Sale or delivery of liquor may be made on or from the premises of a package  
1157 agency, and a package agency may be open for the sale of liquor, only on a day and during  
1158 hours that the commission directs by rule or order.

1159 (b) Subsection (13)(a) governs unless:

1160 (i) the package agency is located at a winery licensed in accordance with Chapter 11,  
1161 Manufacturing and Related Licenses Act;

1162 (ii) the winery licensed in accordance with Chapter 11, Manufacturing and Related  
1163 Licenses Act, holds:

1164 (A) a full-service restaurant license; or

1165 (B) a limited-service restaurant license;

1166 (iii) the restaurant is located at the winery;

1167 (iv) the restaurant sells wines produced at the winery;

1168 (v) the winery:

1169 (A) owns the restaurant; or

1170 (B) operates the restaurant;

1171 (vi) the package agency only sells wine produced at the winery; and

1172 (vii) the package agency's days and hours of sale are the same as the days and hours of  
1173 sale at the restaurant.

1174 (c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee if

1175 the package agent that holds the package agency to sell liquor at the resort does not sell liquor  
1176 in a manner similar to a state store.

1177 (ii) The commission may by rule define what constitutes a package agency that sells  
1178 liquor "in a manner similar to a state store."

1179 (14) (a) Except to the extent authorized by commission rule, a minor may not be  
1180 admitted into, or be on the premises of a package agency unless accompanied by a person who  
1181 is:

1182 (i) 21 years of age or older; and

1183 (ii) the minor's parent, legal guardian, or spouse.

1184 (b) A package agent or staff of a package agency that has reason to believe that a  
1185 person who is on the premises of a package agency is under the age of 21 and is not  
1186 accompanied by a person described in Subsection (14)(a) may:

1187 (i) ask the suspected minor for proof of age;

1188 (ii) ask the person who accompanies the suspected minor for proof of age; and

1189 (iii) ask the suspected minor or the person who accompanies the suspected minor for  
1190 proof of parental, guardianship, or spousal relationship.

1191 (c) A package agent or staff of a package agency shall refuse to sell liquor to the  
1192 suspected minor and to the person who accompanies the suspected minor into the package  
1193 agency if the minor or person fails to provide any information specified in Subsection (14)(b).

1194 (d) A package agent or staff of a package agency shall require the suspected minor and  
1195 the person who accompanies the suspected minor into the package agency to immediately leave  
1196 the premises of the package agency if the minor or person fails to provide information specified  
1197 in Subsection (14)(b).

1198 (15) (a) A package agency may not sell, offer for sale, or furnish liquor except in a  
1199 sealed [~~package~~] container.

1200 (b) A person may not open a sealed [~~package~~] container on the premises of a package  
1201 agency.

1202 (16) The department may pay or otherwise remunerate a package agent on any basis,  
1203 including sales or volume of business done by the package agency.

1204 (17) The commission may prescribe by policy or rule general operational requirements  
1205 of a package agency that are consistent with this title and relate to:

- 1206 (a) physical facilities;
- 1207 (b) conditions of operation;
- 1208 (c) hours of operation;
- 1209 (d) inventory levels;
- 1210 (e) payment schedules;
- 1211 (f) methods of payment;
- 1212 (g) premises security; and
- 1213 (h) any other matter considered appropriate by the commission.

1214 Section 16. Section **32B-2-606 (Effective 07/01/11)** is amended to read:

1215 **32B-2-606 (Effective 07/01/11). Delivery of liquor to package agency.**

1216 (1) Liquor to be sold from a package agency may be transported from a warehouse or  
1217 state store authorized by the department to the package agency if transported by a person  
1218 authorized by the department to transport the liquor to the package agency, including a  
1219 common carrier.

1220 (2) A person, while in or about a vehicle in which liquor is being transported, may not  
1221 open, break, or allow to be opened or broken, a [~~package~~] container containing liquor.

1222 (3) A person may not drink, use, or allow to be drunk or used, any liquor while the  
1223 liquor is in transit under this section.

1224 Section 17. Section **32B-3-303 (Effective 07/01/11)** is amended to read:

1225 **32B-3-303 (Effective 07/01/11). Acts making a person subject to this part.**

1226 (1) One or more of the following acts constitute a nuisance activity:

1227 (a) a single felony conviction within the last two years of:

1228 (i) a retail licensee; or

1229 (ii) supervisory or managerial level staff of the retail licensee;

1230 (b) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:

1231 (i) (A) of a retail licensee; or

1232 (B) staff of the retail licensee;

1233 (ii) within the last two years; and

1234 (iii) made on the basis of an act that occurs on the licensed premises;

1235 (c) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37,

1236 Utah Controlled Substances Act, if:

- 1237 (i) the convictions are made on the basis of an act that occurs on the licensed premises;  
1238 and  
1239 (ii) there is evidence that the retail licensee knew or should have known of the illegal  
1240 activity;
- 1241 (d) a single conviction within the last two years of a retail licensee or staff of the retail  
1242 licensee that is made on the basis of:
- 1243 (i) pornographic and harmful materials:
- 1244 (A) that violate Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and  
1245 Performances; and
- 1246 (B) if the violation occurs on the licensed premises;
- 1247 (ii) prostitution;
- 1248 (iii) engaging in or permitting gambling, as defined and proscribed in Title 76, Chapter  
1249 10, Part 11, Gambling, on the licensed premises;
- 1250 (iv) having any video gaming device, as defined and proscribed by Title 76, Chapter  
1251 10, Part 11, Gambling, on the licensed premises;
- 1252 (v) on the licensed premises engaging in or permitting a contest, game, gaming  
1253 scheme, or gaming device that requires the risking of something of value for a return or for an  
1254 outcome when the return or outcome is based upon an element of chance, excluding the playing  
1255 of an amusement device that confers only an immediate and unrecorded right of replay not  
1256 exchangeable for value;
- 1257 (vi) a disturbance of the peace that occurs on the licensed premises; or
- 1258 (vii) disorderly conduct that occurs on the licensed premises; or
- 1259 (e) three or more adjudicated violations of this title within the last two years by a retail  
1260 licensee or by staff of the retail licensee that result in a criminal citation or an administrative  
1261 referral to the department relating to:
- 1262 (i) the sale, offer for sale, or furnishing of [~~alcohol~~] an alcoholic product to a minor;
- 1263 (ii) the sale, offer for sale, or furnishing of [~~alcohol~~] an alcoholic product to a person  
1264 actually, apparently, or obviously intoxicated;
- 1265 (iii) the sale, offer for sale, or furnishing of [~~alcohol~~] an alcoholic product after the  
1266 lawful hours for the sale or furnishing; or
- 1267 (iv) acts or conduct on the licensed premises contrary to the public welfare and morals

1268 involving lewd acts or lewd entertainment prohibited by this title.

1269 (2) For purposes of Subsection (1), in the case of a retail licensee that is a partnership,  
1270 corporation, or limited liability company, a conviction under Subsection (1)(c) includes a  
1271 conviction of any of the following for an offense described in Subsection (1)(c):

1272 (a) a partner;

1273 (b) a managing agent;

1274 (c) a manager;

1275 (d) an officer;

1276 (e) a director;

1277 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of a  
1278 corporate retail licensee; or

1279 (g) a member who owns at least 20% of a limited liability company retail licensee.

1280 Section 18. Section **32B-3-307 (Effective 07/01/11)** is amended to read:

1281 **32B-3-307 (Effective 07/01/11). Hearing on formal objections to renewal.**

1282 (1) Upon receipt of a formal objection that meets the requirements of Section  
1283 32B-3-306, the department shall:

1284 (a) issue a notice of agency action; and

1285 (b) serve on the retail licensee no later than 30 days before the expiration of the retail  
1286 licensee's license:

1287 (i) the notice of agency action; and

1288 (ii) a copy of the formal objection.

1289 (2) (a) A retail licensee against whom a notice of agency action is served under  
1290 Subsection (1) may request a hearing.

1291 (b) The request for hearing described in Subsection (2)(a) shall be:

1292 (i) in writing; and

1293 (ii) filed with the commission within 10 days of the day on which the notice of agency  
1294 action is served on the retail licensee.

1295 (c) If a retail licensee fails to file a request for hearing in accordance with this  
1296 Subsection (2), the commission may not renew the license of the retail licensee.

1297 (3) (a) Upon receipt of a request for hearing meeting the requirements of Subsection  
1298 (2), the department shall immediately schedule a hearing that shall be:

- 1299 (i) held no later than 10 days before the expiration date of the retail licensee's license;  
1300 and  
1301 (ii) electronically recorded by the department.
- 1302 (b) The retail licensee or an objecting governmental entity, at its own expense, may  
1303 have a reporter approved by the department prepare a transcript from the department's record of  
1304 the hearing.
- 1305 (c) (i) The department shall present information at the hearing that supports a finding  
1306 that a nuisance activity occurred.
- 1307 (ii) The information described in Subsection (3)(c)(i) shall be made a part of the record  
1308 of the hearing.
- 1309 (d) A retail licensee shall:
- 1310 (i) have the opportunity to challenge or explain whether any of the nuisance activity  
1311 that forms the basis for the formal objection occurred; and
- 1312 (ii) be permitted to:
- 1313 (A) testify;
- 1314 (B) present evidence; and
- 1315 (C) comment on the issues at the hearing.
- 1316 (4) (a) A hearing held under this [~~chapter~~] part shall be conducted under the authority  
1317 of the commission.
- 1318 (b) The commission is responsible for rendering a final order on whether a retail  
1319 licensee's license shall be renewed.
- 1320 (c) Notwithstanding Subsections (4)(a) and (b), the commission may appoint a  
1321 necessary hearing examiner to administer the hearing process.
- 1322 (d) The commission or the hearing examiner appointed by the commission shall serve  
1323 as the presiding officer at a hearing held under this section.
- 1324 (e) The presiding officer at a hearing held under this section:
- 1325 (i) shall evaluate:
- 1326 (A) the information presented at the hearing in support of the formal objection; and  
1327 (B) any explanation and evidence offered by the retail licensee; and
- 1328 (ii) may consider such factors as:
- 1329 (A) the length of time the retail licensee has operated the licensed premises;

- 1330 (B) the condition of the licensed premises;
- 1331 (C) whether the retail licensee knew or should have known of the nuisance activity in
- 1332 question;
- 1333 (D) whether the retail licensee failed to:
- 1334 (I) make a substantial effort to correct the nuisance activity; and
- 1335 (II) work with law enforcement to curtail the nuisance activity;
- 1336 (E) whether the nuisance activity has been ongoing or temporary;
- 1337 (F) whether the retail licensee or the retail licensee's staff:
- 1338 (I) initiated contact with the law enforcement agency on the nuisance activity; and
- 1339 (II) cooperated with the law enforcement agency's investigation; and
- 1340 (G) whether prior efforts to stop the nuisance activity by the community or the retail
- 1341 licensee have been unsuccessful.
- 1342 (5) An order issued under this section shall:
- 1343 (a) be based on the evidence presented at the hearing; and
- 1344 (b) state whether:
- 1345 (i) the continued operation of the licensed premises will endanger the public health,
- 1346 peace, safety, welfare, or morals of the community; and
- 1347 (ii) the retail license should or should not be renewed.
- 1348 (6) (a) If the presiding officer is a hearing examiner appointed by the commission, the
- 1349 hearing officer shall issue a signed order in writing that:
- 1350 (i) complies with Subsection (5);
- 1351 (ii) recommends to the commission whether the retail license should or should not be
- 1352 renewed;
- 1353 (iii) states the reasons for the hearing officer's decision; and
- 1354 (iv) notifies the retail licensee and the objecting governmental entity that the hearing
- 1355 examiner's order will be considered by the commission at the next regularly scheduled meeting
- 1356 of the commission.
- 1357 (b) The department shall promptly mail a copy of the hearing examiner's order to:
- 1358 (i) the retail licensee; and
- 1359 (ii) any objecting governmental entity.
- 1360 (c) The commission at its next regularly scheduled meeting after receipt of a hearing

1361 examiner's order, shall decide whether to renew or not renew the retail license on the basis of:

1362 (i) the record and evidence presented at the hearing; and

1363 (ii) the hearing examiner's recommendation.

1364 (7) (a) As an alternative to ordering that a retail license not be renewed under this

1365 section, the commission may conditionally renew a retail license by requiring that:

1366 (i) the retail licensee and the licensed premises be closely monitored during the

1367 licensing year by:

1368 (A) the department;

1369 (B) local government officials; and

1370 (C) law enforcement; and

1371 (ii) the matter be reviewed before the next renewal period.

1372 (b) The commission may conditionally renew a retail license contingent on a person

1373 listed in Subsection (7)(b)(ii) divesting all interest in the retail licensed business if:

1374 (i) the retail licensee is a partnership, corporation, or limited liability company; and

1375 (ii) the formal objection filed under this section if filed solely on the basis of a felony

1376 conviction:

1377 (A) of:

1378 (I) a partner;

1379 (II) a managing agent;

1380 (III) a manager;

1381 (IV) an officer;

1382 (V) a director;

1383 (VI) a stockholder who holds at least 20% of the total issued and outstanding stock of a

1384 corporate licensee; or

1385 (VII) a member who owns at least 20% of a limited liability company licensee; and

1386 (B) for illegal activity that occurred off of the licensed premises.

1387 (8) (a) In accordance with this section, the commission shall issue a written order

1388 setting forth the commission's decision and the reason for the commission's decision.

1389 (b) The order described in Subsection (8)(a) is considered final on the date the order

1390 becomes effective.

1391 (c) The department shall serve a copy of the order on the retail licensee.

1392 (9) A retail licensee whose retail license is not renewed by order of the commission  
1393 may seek judicial review under the procedures provided in Section 32B-3-207.

1394 (10) A retail licensee whose retail license is not renewed may not reapply for a license  
1395 under this title for three years from the date the retail license is not renewed.

1396 Section 19. Section **32B-4-203 (Effective 07/01/11)** is amended to read:

1397 **32B-4-203 (Effective 07/01/11). Authority to inspect.**

1398 (1) (a) This Subsection (1) applies to:

1399 (i) a commissioner;

1400 (ii) an authorized representative of the commission or department; or

1401 (iii) a law enforcement or peace officer.

1402 (b) An individual described in Subsection (1)(a):

1403 (i) shall be given access, ingress, and egress to and from premises or a conveyance  
1404 used in the storage, sale, furnishing, manufacture, or transportation of an alcoholic product;

1405 (ii) may open a ~~[package]~~ container containing, or supposed to contain, an article sold,  
1406 or exposed for sale, held in possession, or manufactured with intent to sell in violation of this  
1407 title or commission rules; and

1408 (iii) may inspect the contents and take samples of the contents for analysis from a  
1409 ~~[package]~~ container described in this Subsection (1).

1410 (2) The following shall assist, when requested by a person described in Subsection (1),  
1411 in tracing, finding, or discovering the presence of an article prohibited by this title or  
1412 commission rules to the extent assistance would not infringe upon the person's federal and state  
1413 constitutional rights:

1414 (a) a dealer;

1415 (b) a clerk;

1416 (c) a bookkeeper;

1417 (d) an express agent;

1418 (e) a railroad or airline official;

1419 (f) a common or other carrier; and

1420 (g) an employee of a person listed in this Subsection (2).

1421 Section 20. Section **32B-4-206 (Effective 07/01/11)** is amended to read:

1422 **32B-4-206 (Effective 07/01/11). Searches, seizures, forfeitures, and fines.**

1423 (1) The following are subject to forfeiture pursuant to Title 24, Chapter 1, Utah  
1424 Uniform Forfeiture Procedures Act:

1425 (a) an alcoholic product possessed, purchased, used, stored, sold, offered for sale,  
1426 furnished, given, received, warehoused, manufactured, distributed, shipped, carried,  
1427 transported, or adulterated in violation of this title or commission rules;

1428 (b) a [~~package~~] container or property used or intended for use as a [~~package~~] container  
1429 for an alcoholic product in violation of this title or commission rules;

1430 (c) raw materials, products, and equipment used, or intended for use, in manufacturing,  
1431 processing, delivering, importing, exporting, or adulterating an alcoholic product in violation  
1432 of this title or commission rules;

1433 (d) implements, furniture, fixtures, or other personal property used or kept for a  
1434 violation of this title or commission rules;

1435 (e) conveyances including an aircraft, vehicle, or vessel used or intended for use, to  
1436 transport or in any manner facilitate the transportation, sale, receipt, possession, or  
1437 concealment of property described in Subsection (1)(a), (b), (c), or (d); and

1438 (f) a record used or intended for use in violation of this title or commission rules.

1439 (2) (a) Property subject to forfeiture under this title may be seized by a peace officer of  
1440 this state or any other person authorized by law upon process issued by a court having  
1441 jurisdiction over the property in accordance with the Utah Rules of Criminal Procedure relating  
1442 to search warrants or administrative warrants.

1443 (b) Notwithstanding Subsection (2)(a), seizure without process may be made when:

1444 (i) the seizure is incident to an arrest or search under a search warrant or an inspection  
1445 under an administrative inspection warrant;

1446 (ii) the property subject to seizure has been the subject of a prior judgment in favor of  
1447 the state in a criminal injunction or forfeiture proceeding under this title;

1448 (iii) the peace officer or other person authorized by law has probable cause to believe  
1449 that the property is directly or indirectly dangerous to health or safety; or

1450 (iv) the peace officer or other person authorized by law has probable cause to believe  
1451 that the property is being or has been used, intended to be used, held, or kept in violation of this  
1452 title or commission rules.

1453 (3) If property is seized pursuant to a search or administrative warrant, a peace officer

1454 or other person authorized by law shall comply with the requirements of the Utah Rules of  
1455 Criminal Procedure.

1456 (4) (a) If property is seized without process:

1457 (i) the peace officer or other person authorized by law shall make a return of the peace  
1458 officer's or person's acts without delay directly to the district court of the county in which the  
1459 property was located; and

1460 (ii) the district court shall have jurisdiction of the case.

1461 (b) A return shall describe:

1462 (i) the property seized;

1463 (ii) the place where the property is seized; and

1464 (iii) any person in apparent possession of the property.

1465 (c) A peace officer or other person described in Subsection (4)(a) shall promptly:

1466 (i) deliver a written inventory of anything seized to any person in apparent authority at  
1467 the premises where the seizure is made; or

1468 (ii) post a written inventory of anything seized in a conspicuous place at the premises.

1469 (d) A written inventory under this Subsection (4) shall state the place where the  
1470 property is being held.

1471 (5) Property taken or detained under this section is not repleviable but is considered in  
1472 custody of the law enforcement agency making the seizure subject only to the orders of the  
1473 court or the official having jurisdiction. When property is seized under this title, the  
1474 appropriate person or agency may:

1475 (a) place the property under seal;

1476 (b) remove the property to a place designated by:

1477 (i) the person or agency; or

1478 (ii) the warrant under which the property is seized; or

1479 (c) take custody of the property and remove the property to an appropriate location for  
1480 disposition in accordance with law.

1481 (6) When property is subject to forfeiture under this section, a proceeding shall be  
1482 instituted in accordance with Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

1483 (7) When property is ordered forfeited under Title 24, Chapter 1, Utah Uniform  
1484 Forfeiture Procedures Act, by a finding of a court that no person is entitled to recover the

1485 property, the property, if an alcohol [~~package~~] container or product used as a [~~package~~]  
1486 container for an alcoholic product, shall be disposed of as follows:

1487 (a) An alcoholic product shall be sold in accordance with Section 24-1-17 if the  
1488 alcoholic product is:

1489 (i) unadulterated, pure, and free from crude, unrectified, or impure form of ethylic  
1490 alcohol, or any other deleterious substance or liquid; and

1491 (ii) otherwise in saleable condition.

1492 (b) If the alcoholic product is impure, adulterated, or otherwise unfit for sale, the  
1493 department shall destroy the alcoholic product and its [~~package~~] container under competent  
1494 supervision.

1495 (8) Except when otherwise provided, a fine or forfeiture levied under this title shall be  
1496 paid to the county treasurer of the county in which the prosecution occurred.

1497 Section 21. Section **32B-4-208 (Effective 07/01/11)** is amended to read:

1498 **32B-4-208 (Effective 07/01/11). Nuisances.**

1499 (1) As used in this section, "nuisance" means:

1500 (a) a room, house, building, structure, place, aircraft, vehicle, vessel, or other  
1501 conveyance where an alcoholic product is possessed, purchased, used, kept, stored, sold,  
1502 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,  
1503 carried, transported, or adulterated in violation of this title; or

1504 (b) an alcoholic product, [~~package~~] container, equipment, or other property kept or  
1505 used in maintaining an item or property described in Subsection (1)(a).

1506 (2) A person who maintains or assists in maintaining a nuisance is guilty of a class B  
1507 misdemeanor.

1508 (3) If a person has knowledge that, or has reason to believe that the person's room,  
1509 house, building, structure, place, aircraft, vehicle, vessel, or other conveyance is occupied or  
1510 used as a nuisance, or allows it to be occupied or used as a nuisance, the nuisance property is  
1511 subject to a lien for and may be sold to pay the fines and costs assessed against the person  
1512 guilty of the common nuisance. This lien may be enforced by action in a court having  
1513 jurisdiction.

1514 (4) (a) The department shall bring an action to abate a nuisance in the name of the  
1515 department in a court having jurisdiction.

1516 (b) An action brought under this Subsection (4) is an action in equity.

1517 (c) The department may not be required to post a bond to initiate an action under this  
1518 Subsection (4).

1519 (d) A court may issue:

1520 (i) if it appears that a nuisance exists, a temporary writ of injunction restraining the  
1521 defendant from conducting or permitting the continuance of the nuisance until the conclusion  
1522 of the trial; and

1523 (ii) an order restraining the defendant and any other person from removing or  
1524 interfering with an alcoholic product, [~~package~~] container, equipment, or other property kept or  
1525 used in violation of this title or commission rules.

1526 (e) In an action to abate or enjoin a nuisance, the court need not find that the property  
1527 involved is being unlawfully used at the time of the hearing.

1528 (f) On finding that a material allegation of a petition or complaint is true, the court  
1529 shall order that an alcoholic product may not be possessed, purchased, used, kept, stored, sold,  
1530 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,  
1531 carried, transported, or adulterated, in any portion of the room, house, building, structure,  
1532 place, aircraft, vehicle, vessel, or other conveyance.

1533 (g) Upon judgment of a court ordering abatement of the nuisance, the court may order  
1534 that the premises or conveyance in question may not be occupied or used for any purpose for  
1535 one year, except under Subsection (4)(h).

1536 (h) A court may permit premises or conveyance described in Subsection (4)(g) to be  
1537 occupied or used:

1538 (i) if its owner, lessee, tenant, or occupant gives bond in an appropriate amount with  
1539 sufficient surety, approved by the court, payable to the state;

1540 (ii) on the condition that an alcoholic product will not be present in or on the premises  
1541 or the conveyance; and

1542 (iii) on the condition that payment of the fines, costs, and damages assessed for  
1543 violation of this title or commission rules will be made.

1544 (5) If a tenant of the premises uses the premises or any part of the premises in  
1545 maintaining a nuisance, or knowingly permits use by another, the lease is void and the right to  
1546 possession reverts to the owner or lessor who is entitled to the remedy provided by law for

1547 forcible detention of the premises.

1548 (6) A person is guilty of assisting in maintaining a nuisance as provided in Section  
1549 76-10-804, if that person:

1550 (a) knowingly permits a building or premises owned or leased by the person, or under  
1551 the person's control, or any part of a building or premises, to be used in maintaining a nuisance;  
1552 or

1553 (b) after being notified in writing by a prosecutor or other citizen of the unlawful use,  
1554 fails to take all proper measures to:

1555 (i) abate the nuisance; or

1556 (ii) remove the one or more persons from the premises.

1557 Section 22. Section **32B-4-406 (Effective 07/01/11)** is amended to read:

1558 **32B-4-406 (Effective 07/01/11). Unlawful sale, offer for sale, or furnishing of**  
1559 **beer.**

1560 (1) Except as provided in Subsection (2):

1561 (a) a person may not sell, offer for sale, or furnish beer to the general public in a  
1562 [~~package~~] container that exceeds two liters; and

1563 (b) a person may not purchase or possess beer in a [~~package~~] container that exceeds  
1564 two liters.

1565 (2) (a) A retail licensee may sell, offer for sale, or furnish beer on draft subject to the  
1566 requirements of Section 32B-5-304.

1567 (b) A retail licensee may purchase or possess beer in a [~~package~~] container that exceeds  
1568 two liters to be dispensed on draft for consumption subject to the requirements of Section  
1569 32B-5-304.

1570 (c) A beer wholesaler licensee may sell, offer for sale, or furnish beer in a [~~package~~]  
1571 container that exceeds two liters to a retail licensee described in Subsection (2)(a).

1572 Section 23. Section **32B-4-420 (Effective 07/01/11)** is amended to read:

1573 **32B-4-420 (Effective 07/01/11). Unlawful adulteration.**

1574 (1) For purposes of this section, "tamper" means to do one or more of the following to  
1575 the contents of a [~~package~~] container:

1576 (a) fortify;

1577 (b) adulterate;

- 1578 (c) contaminate;
- 1579 (d) dilute;
- 1580 (e) change its character or purity; or
- 1581 (f) otherwise change.
- 1582 (2) A person may not, for any purpose, mix or allow to be mixed with an alcoholic
- 1583 product sold or supplied by the person as a beverage any of the following:
- 1584 (a) a drug;
- 1585 (b) methylic alcohol;
- 1586 (c) a crude, unrectified, or impure form of ethylic alcohol; or
- 1587 (d) another deleterious substance.
- 1588 (3) (a) The following may not engage in an act listed in Subsection (3)(b):
- 1589 (i) a package agent;
- 1590 (ii) a retail licensee;
- 1591 (iii) a permittee;
- 1592 (iv) a beer wholesaler licensee;
- 1593 (v) a liquor warehouser licensee;
- 1594 (vi) a supplier; or
- 1595 (vii) an importer.
- 1596 (b) A person listed in Subsection (3)(a) may not:
- 1597 (i) tamper with the contents of a [~~package~~] container of alcoholic product as originally
- 1598 marketed by a manufacturer;
- 1599 (ii) refill or partly refill with any substance the contents of an original [~~package~~]
- 1600 container of alcoholic product as originally marketed by a manufacturer;
- 1601 (iii) misrepresent the brand of an alcoholic product sold or offered for sale; or
- 1602 (iv) sell or furnish a brand of alcoholic product that is not the same as that ordered by a
- 1603 purchaser without first advising the purchaser of the difference.
- 1604 Section 24. Section **32B-4-422 (Effective 07/01/11)** is amended to read:
- 1605 **32B-4-422 (Effective 07/01/11). Unlawful dispensing.**
- 1606 (1) For purposes of this section:
- 1607 (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1608 (b) "Primary spirituous liquor" does not include a secondary alcoholic product used as

1609 a flavoring in conjunction with the primary distilled spirit in a beverage.

1610 (2) A retail licensee licensed under this title to sell, offer for sale, or furnish spirituous  
1611 liquor for consumption on the licensed premises, or staff of the retail licensee may not:

1612 (a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed  
1613 premises except in a quantity that does not exceed 1.5 ounces per beverage dispensed through a  
1614 calibrated metered dispensing system approved by the department;

1615 (b) sell, offer for sale, or furnish more than a total of 2.5 ounces of spirituous liquor per  
1616 beverage;

1617 (c) allow a person on the licensed premises to have more than a total of 2.5 ounces of  
1618 spirituous liquor at a time; or

1619 (d) (i) except as provided in Subsection (2)(d)(ii), allow a person to have more than  
1620 two spirituous liquor beverages at a time; or

1621 (ii) allow a person on the premises of the following to have more than one spirituous  
1622 liquor beverage at a time:

1623 (A) a full-service restaurant licensee;

1624 (B) a person operating under a full-service restaurant sublicense;

1625 (C) an on-premise banquet licensee;

1626 (D) a person operating under an on-premise banquet [~~license~~] sublicense; or

1627 (E) a single event permittee.

1628 (3) A violation of this section is a class C misdemeanor.

1629 Section 25. Section **32B-4-507 (Effective 07/01/11)** is amended to read:

1630 **32B-4-507 (Effective 07/01/11). Interfering with manufacturer, supplier, or**  
1631 **importer.**

1632 (1) Except as provided in Subsection (2), a commissioner, the director, or a department  
1633 employee may not directly or indirectly participate in any manner, by recommendation or  
1634 otherwise, in the appointment, employment, or termination of appointment or employment of  
1635 staff by:

1636 (a) a manufacturer of liquor;

1637 (b) a supplier of liquor to the department; or

1638 (c) an importer of liquor to the department.

1639 (2) A person described in Subsection (1) may participate in the appointment,

1640 employment, or termination of appointment or employment to:

1641 (a) determine qualifications for licensing in accordance with Chapter 11,  
1642 Manufacturing and Related Licenses Act; or

1643 (b) enforce compliance with this title.

1644 Section 26. Section **32B-4-704 (Effective 07/01/11)** is amended to read:

1645 **32B-4-704 (Effective 07/01/11). Tied house -- Prohibitions.**

1646 (1) (a) It is unlawful for an industry member, directly or indirectly, or through an  
1647 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from  
1648 the department to the exclusion in whole or in part of a product sold or offered for sale by  
1649 another person by acquiring or holding an interest in a license with respect to the premises of a  
1650 retailer, except when the license is held by a retailer that is completely owned by the industry  
1651 member.

1652 (b) Interest in a retail license includes an interest acquired by a corporate official,  
1653 partner, employee, or other representative of the industry member.

1654 (c) An interest in a retail license acquired by a separate corporation in which the  
1655 industry member or the industry member's officials hold ownership or are otherwise affiliated  
1656 is an interest in a retail license.

1657 (d) Less than complete ownership of a retail business by an industry member  
1658 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

1659 (2) (a) It is unlawful for an industry member, directly or indirectly, or through an  
1660 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from  
1661 the department to the exclusion in whole or in part of a product sold or offered for sale by  
1662 another person by acquiring an interest in real or personal property owned, occupied, or used  
1663 by the retailer in the conduct of the retailer's business.

1664 (b) For purposes of Subsection (2)(a):

1665 (i) "interest" does not include complete ownership of a retail business by an industry  
1666 member;

1667 (ii) interest in retail property includes an interest acquired by a corporate official,  
1668 partner, employee, or other representative of the industry member;

1669 (iii) any interest in a retail license acquired by a separate corporation in which the  
1670 industry member or its officials hold ownership or are otherwise affiliated is an interest in the

1671 retailer's property;

1672 (iv) less than complete ownership of a retail business by an industry member

1673 constitutes an interest in retail property;

1674 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry

1675 member constitutes an interest in the retailer's property; and

1676 (vi) the renting of display space by an industry member at a retail establishment

1677 constitutes an interest in the retailer's property.

1678 (3) (a) Subject to Section 32B-4-705, it is unlawful for an industry member, directly or

1679 indirectly, or through an affiliate, to induce a retailer to purchase an alcoholic product from the

1680 industry member or from the department to the exclusion in whole or in part of a product sold

1681 or offered for sale by another person by furnishing, giving, renting, lending, or selling to the

1682 retailer equipment, a fixture, a sign, supplies, money, a service, or other thing of value.

1683 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

1684 (A) furnishing a thing of value to a third party when the benefit resulting from the thing

1685 of value flows to an individual retailer; and

1686 (B) making a payment for advertising to a retailer association or a display company

1687 when the resulting benefits flow to an individual retailer.

1688 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

1689 (A) the thing of value is furnished to a retailer by the third party without the knowledge

1690 or intent of the industry member; or

1691 (B) the industry member does not reasonably foresee that the thing of value would be

1692 furnished to a retailer.

1693 (c) Anything that may lawfully be furnished, given, rented, lent, or sold by industry

1694 members to retailers under Section 32B-4-705 may be furnished directly by a third party to a

1695 retailer.

1696 (d) (i) A transaction in which equipment is sold to a retailer by an industry member,

1697 except as provided in Section 32B-4-705, is the selling of equipment within the meaning of

1698 Subsection (3)(a) regardless of how the equipment is sold.

1699 (ii) The negotiation by an industry member of a special price to a retailer for equipment

1700 from an equipment company is the furnishing of a thing of value within the meaning of

1701 Subsection (3)(a).

1702 (e) The furnishing of free warehousing by delaying delivery of an alcoholic product  
1703 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,  
1704 delaying final delivery of products beyond the close of the period of time for which credit is  
1705 lawfully extended, is the furnishing of a service or thing of value within the meaning of  
1706 Subsection (3)(a).

1707 (f) A financial, legal, administrative, or influential assistance given a retailer by an  
1708 industry member in the retailer's acquisition of the retailer's license is the furnishing of a  
1709 service or thing of value within the meaning of Subsection (3)(a).

1710 (4) It is unlawful for an industry member, directly or indirectly, or through an affiliate,  
1711 to induce a retailer to purchase an alcoholic product from the industry member or from the  
1712 department to the exclusion in whole or in part of a product sold or offered for sale by another  
1713 person by paying or crediting the retailer for an advertising, display, or distribution service:

1714 (a) as defined in and to the extent restricted by 27 C.F.R. Sec. 6.51 through 6.56; and

1715 (b) subject to the exceptions:

1716 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

1717 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

1718 (5) It is unlawful for an industry member, directly or indirectly, or through an affiliate,  
1719 to induce a retailer to purchase an alcoholic product from the industry member or from the  
1720 department to the exclusion in whole or in part of a product sold or offered for sale by another  
1721 person by guaranteeing a loan or the repayment of a financial obligation of the retailer.

1722 (6) (a) It is unlawful for an industry member, directly or indirectly, or through an  
1723 affiliate, to induce a retailer to purchase beer from the industry member to the exclusion in  
1724 whole or in part of a beer product sold or offered for sale by another person by extending to a  
1725 retailer credit for a period in excess of 15 days from the date of delivery to the date of full legal  
1726 discharge from all indebtedness arising from the transaction by the retailer paying cash or its  
1727 equivalent, unless:

1728 (i) beer purchased or delivered during the first 15 days of any month is paid for in cash  
1729 or its equivalent on or before the 25th day of the same month; and

1730 (ii) beer purchased or delivered after the 15th day of any month is paid for in cash or its  
1731 equivalent on or before the 10th day of the next succeeding month.

1732 (b) A first party in-state check is considered cash payment if the check is:

- 1733 (i) honored on presentment; and
- 1734 (ii) received under the terms prescribed in Subsection (6)(a).
- 1735 (c) An extension of credit for product purchased by an industry member to a retailer
- 1736 whose account is in arrears does not constitute a violation of Subsection (6)(a) if the retailer
- 1737 pays in advance or on delivery an amount equal to or greater than the value of each order,
- 1738 regardless of the manner in which the industry member applies the payment in its records.
- 1739 (7) (a) It is unlawful for an industry member, directly or indirectly, or through an
- 1740 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from
- 1741 the department to the exclusion in whole or in part of a product sold or offered for sale by
- 1742 another person by requiring:
- 1743 (i) the department to take and dispose of a certain quota of a product; or
- 1744 (ii) a beer retailer to take and dispose of a certain quota of a beer product.
- 1745 (b) (i) It is an unlawful means to induce to require:
- 1746 (A) the department to purchase one product in order to purchase another product; or
- 1747 (B) a beer retailer to purchase one beer product in order to purchase another beer
- 1748 product.
- 1749 (ii) This Subsection (7)(b) includes:
- 1750 (A) the requirement to take a minimum quantity of a product in standard packaging in
- 1751 order to obtain the same product in some type of premium [~~package~~] container such as:
- 1752 (I) a distinctive decanter; or
- 1753 (II) a wooden or tin box; or
- 1754 (B) combination sales if one or more products may be purchased only in combination
- 1755 with another product and not individually.
- 1756 (c) This Subsection (7) does not preclude the selling, at a special combination price, of
- 1757 two or more kinds or brands of products so long as the department or beer retailer:
- 1758 (i) has the option of purchasing either product at the usual price; and
- 1759 (ii) is not required to purchase a product the department or beer retailer does not want.
- 1760 (d) An industry member may package and distribute an alcoholic product in
- 1761 combination with other nonalcoholic items.
- 1762 (e) A combination package shall be designed to be delivered intact to the consumer and
- 1763 the additional cost incurred by the industry member shall be included in the cost to the

1764 department or beer retailer.

1765 Section 27. Section **32B-4-705 (Effective 07/01/11)** is amended to read:

1766 **32B-4-705 (Effective 07/01/11). Exclusions from tied house prohibitions.**

1767 (1) Notwithstanding Subsection 32B-4-704(3), a thing of value may be furnished by an  
1768 industry member to a retailer under the conditions and within the limitations prescribed in:

1769 (a) this section; and

1770 (b) the applicable federal laws cited in this section.

1771 (2) The following may be furnished by an industry member:

1772 (a) a product display as provided in 27 C.F.R. Sec. 6.83;

1773 (b) point of sale advertising material or a consumer advertising specialty as provided in  
1774 27 C.F.R. Sec. 6.84;

1775 (c) a thing of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

1776 (d) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

1777 (e) combination packaging as provided in 27 C.F.R. Sec. 6.93;

1778 (f) an educational seminar as provided in 27 C.F.R. Sec. 6.94;

1779 (g) a consumer promotion as provided in 27 C.F.R. Sec. 6.96;

1780 (h) an advertising service as provided in 27 C.F.R. Sec. 6.98;

1781 (i) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

1782 (j) merchandise as provided in 27 C.F.R. Sec. 6.101; and

1783 (k) an outside sign as provided in 27 C.F.R. Sec. 6.102.

1784 (3) The following exceptions provided in federal law are not applicable:

1785 (a) the exception for a sample as provided in 27 C.F.R. Sec. 6.91;

1786 (b) the exception for a consumer tasting or sampling at a retail establishment as  
1787 provided in 27 C.F.R. Sec. 6.95; and

1788 (c) the exception for participation in a retailer association activity provided in 27  
1789 C.F.R. Sec. 6.100.

1790 (4) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall maintain  
1791 a record:

1792 (a) of an item furnished to a retailer;

1793 (b) on the premises of the industry member; and

1794 (c) for a three-year period.

- 1795 (5) A sample of liquor may be provided to the department under the following  
1796 conditions:
- 1797 (a) With the department's permission, an industry member may submit a department  
1798 sample to the department for product testing, analysis, and sampling.
- 1799 (b) No more than two department samples of a particular type, vintage, and production  
1800 lot of a particular branded product may be submitted to the department for department testing,  
1801 analysis, and sampling within a consecutive 120-day period.
- 1802 (c) (i) A department sample may not exceed 1 liter.
- 1803 (ii) Notwithstanding Subsection (5)(c)(i), a department sample of the following may  
1804 not exceed 1.5 liters unless that exact alcoholic product is only commercially packaged in a  
1805 larger size, not to exceed 5 liters:
- 1806 (A) wine;
- 1807 (B) heavy beer; or
- 1808 (C) a flavored malt beverage.
- 1809 (d) A department sample submitted to the department:
- 1810 (i) shall be shipped prepaid by the industry member by common carrier; and
- 1811 (ii) may not be shipped by United States mail directly to the department's central  
1812 administrative warehouse office.
- 1813 (e) A department sample may not be shipped to any other location within the state.
- 1814 (f) The industry member shall submit with a department sample submitted to the  
1815 department a letter from the industry member that clearly:
- 1816 (i) identifies the product as a "department sample"; and
- 1817 (ii) states the FOB case price of the product.
- 1818 (g) (i) The department may transfer a listed item from current stock:
- 1819 (A) for use as a comparison control sample; or
- 1820 (B) to verify product spoilage as considered appropriate.
- 1821 (ii) The department shall charge back a sample transferred under this Subsection (5)(g)  
1822 to the respective industry member.
- 1823 (h) The department shall:
- 1824 (i) account for, label, and record a department sample received or transferred;
- 1825 (ii) account for the department sample's disposition; and

- 1826 (iii) maintain a record of the sample and its disposition for a two-year period.
- 1827 (i) The department shall affix to each [~~package~~] container of a department sample a  
1828 label clearly identifying the product as a "department sample."
- 1829 (j) The department shall dispose of a department sample delivered to the department or  
1830 transferred from the department's current stock in one of the following ways as chosen by the  
1831 department:
- 1832 (i) test and analyze the department sample, with the remaining contents destroyed  
1833 under controlled and audited conditions established by the department;
- 1834 (ii) destroy the entire contents of the department sample under controlled and audited  
1835 conditions established by the department; or
- 1836 (iii) add the department sample to the inventory of the department for sale to the  
1837 public.
- 1838 (k) A person other than an authorized department official may not be in possession of a  
1839 department sample except as otherwise provided.
- 1840 (l) The department shall handle a liquor item received by the department from a  
1841 supplier that is not designated as a sample by the supplier, but that is an item not specifically  
1842 listed on a department purchase order, in accordance with this Subsection (5).
- 1843 (m) The department may not use its money to pay freight or charges on a sample or a  
1844 liquor item:
- 1845 (i) shipped to the department by a supplier; and  
1846 (ii) not listed on a department purchase order.
- 1847 (6) A sample of beer may be provided by a beer industry member to a retailer under the  
1848 conditions listed in this Subsection (6).
- 1849 (a) A sample of beer may be provided by an industry member only to a retailer who has  
1850 not purchased the brand of beer from that industry member within the last 12 months.
- 1851 (b) For each retailer, the industry member may give not more than three gallons of any  
1852 brand of beer, except that if a particular product is not available in a size within the quantity  
1853 limitation, an industry member may furnish the next largest size.
- 1854 (7) An educational seminar may involve an industry member under the conditions  
1855 listed in this Subsection (7).
- 1856 (a) An industry member may provide or participate in an educational seminar:

- 1857 (i) involving:
- 1858 (A) the department;
- 1859 (B) a retailer;
- 1860 (C) a holder of a scientific or educational special use permit;
- 1861 (D) another industry member; or
- 1862 (E) an employee of a person listed in Subsections (7)(a)(i)(A) through (D); and
- 1863 (ii) regarding a topic such as:
- 1864 (A) merchandising and product knowledge;
- 1865 (B) use of equipment; and
- 1866 (C) a tour of an alcoholic product manufacturing facility.
- 1867 (b) An industry member may not pay the expenses of or compensate a person who is a
- 1868 department employee, a retailer, or a permittee for attending a seminar or tour described in
- 1869 Subsection (7)(a).
- 1870 (8) (a) A liquor industry member may conduct a tasting of a liquor product of the
- 1871 industry member:
- 1872 (i) for the department, at the department's request; and
- 1873 (ii) for a licensed industry representative, but only at the department's central
- 1874 administrative warehouse office.
- 1875 (b) A liquor industry member may only use a department sample or industry
- 1876 representative sample when conducting a tasting of the industry member's liquor product.
- 1877 (c) A beer industry member may conduct a tasting of a beer product for a beer retailer
- 1878 either at:
- 1879 (i) the industry member's premises; or
- 1880 (ii) a retail establishment.
- 1881 (d) Except to the extent authorized by commission rule, an alcoholic product industry
- 1882 member may not conduct tasting or sampling activities with:
- 1883 (i) a retailer; or
- 1884 (ii) a member of the general public.
- 1885 (9) A beer industry member may participate in a beer retailer association activity to the
- 1886 extent authorized by 27 C.F.R. Sec. 6.100.
- 1887 (10) (a) An industry member may contribute to a charitable, civic, religious, fraternal,

1888 educational, or community activity, except the contribution may not be given to influence a  
1889 retailer in the selection of a product that may be sold at the activity.

1890 (b) An industry member or retailer violates this Subsection (10) if:

1891 (i) the industry member's contribution influences, directly or indirectly, the retailer in  
1892 the selection of a product; and

1893 (ii) a competitor's product is excluded in whole or in part from sale at the activity.

1894 (11) (a) An industry member may lease or furnish equipment listed in Subsection  
1895 (11)(b) to a retailer if:

1896 (i) the equipment is leased or furnished for a special event;

1897 (ii) a reasonable rental or service fee is charged for the equipment; and

1898 (iii) the period for which the equipment is leased or furnished does not exceed 30 days.

1899 (b) This Subsection (11) applies to the following equipment:

1900 (i) a picnic pump;

1901 (ii) a cold plate;

1902 (iii) a tub;

1903 (iv) a keg box;

1904 (v) a refrigerated trailer;

1905 (vi) a refrigerated van; or

1906 (vii) a refrigerated draft system.

1907 (12) (a) A liquor industry member may assist the department in:

1908 (i) ordering, shipping, and delivering merchandise;

1909 (ii) new product notification;

1910 (iii) listing and delisting information;

1911 (iv) price quotations;

1912 (v) product sales analysis;

1913 (vi) shelf management; and

1914 (vii) an educational seminar.

1915 (b) (i) A liquor industry member may, to acquire a new listing:

1916 (A) solicit an order from the department; and

1917 (B) submit to the department a sample of the liquor industry member's products under

1918 Subsection (5) and price lists.

1919 (ii) (A) An industry member is confined to the customer areas when the industry  
1920 member visits a state store or package agency unless otherwise approved.

1921 (B) An industry member is confined to the office area of a state warehouse when the  
1922 industry member visits a state warehouse unless otherwise approved.

1923 (13) A beer industry member may assist a beer retailer in:

1924 (a) ordering, shipping, and delivering beer merchandise;

1925 (b) new product notification;

1926 (c) listing and delisting information;

1927 (d) price quotations;

1928 (e) product sales analysis;

1929 (f) shelf management; and

1930 (g) an educational seminar.

1931 (14) A beer industry member may, to acquire a new listing:

1932 (a) solicit an order from a beer retailer; and

1933 (b) submit to a beer retailer a sample of the beer industry member's beer products under  
1934 Subsection (5) and price lists.

1935 Section 28. Section **32B-5-303 (Effective 07/01/11)** is amended to read:

1936 **32B-5-303 (Effective 07/01/11). Purchase and storage of an alcoholic product by a**  
1937 **retail licensee.**

1938 (1) (a) A retail licensee may not purchase liquor except from a state store or package  
1939 agency.

1940 (b) A retail licensee may transport liquor purchased from a state store or package  
1941 agency from the place of purchase to the licensed premises.

1942 (c) A retail licensee shall pay for liquor in accordance with rules established by the  
1943 commission.

1944 (2) (a) (i) A [~~beer retailer~~] retail licensee may not purchase, acquire, possess for the  
1945 purpose of resale, or sell beer except beer that the [~~beer retailer~~] retail licensee purchases from:

1946 (A) a beer wholesaler licensee; or

1947 (B) a small brewer that manufactures the beer.

1948 (ii) Violation of this Subsection (2)(a) is a class A misdemeanor.

1949 (b) (i) If a [~~beer retailer~~] retail licensee purchases beer under Subsection (2)(a) from a

1950 beer wholesaler licensee, the [~~beer retailer~~] retail licensee shall purchase beer only from a beer  
1951 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area  
1952 in which the [~~beer retailer~~] retail licensee is located, unless an alternate wholesaler is  
1953 authorized by the department to sell to the [~~beer retailer~~] retail licensee as provided in Section  
1954 32B-13-301.

1955 (ii) Violation of Subsection (2)(b) is a class B misdemeanor.

1956 (3) A retail licensee may not store, sell, offer for sale, or furnish an alcoholic product in  
1957 a place other than as designated in the retail licensee's application, unless the retail licensee  
1958 first applies for and receives approval from the department for a change of location within the  
1959 licensed premises.

1960 (4) A liquor storage area shall remain locked at all times other than those hours and  
1961 days when liquor sales are authorized by law.

1962 Section 29. Section **32B-5-304 (Effective 07/01/11)** is amended to read:

1963 **32B-5-304 (Effective 07/01/11). Portions in which alcoholic product may be sold.**

1964 (1) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor only  
1965 in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated  
1966 metered dispensing system approved by the department in accordance with commission rules  
1967 adopted under this title, except that:

1968 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1969 system if used as a secondary flavoring ingredient in a beverage subject to the following  
1970 requirements:

1971 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
1972 a primary spirituous liquor;

1973 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1974 (iii) the retail licensee shall designate a location where flavorings are stored on the  
1975 floor plan submitted to the department; and

1976 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1977 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1978 system if used:

1979 (i) as a flavoring on a dessert; and

1980 (ii) in the preparation of a flaming food dish, drink, or dessert; and

- 1981 (c) a patron may have no more than 2.5 ounces of spirituous liquor at a time.
- 1982 (2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an  
1983 individual portion that does not exceed 5 ounces per glass or individual portion.
- 1984 (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to  
1985 a patron in more than one glass if the total amount of wine does not exceed 5 ounces.
- 1986 (b) (i) A retail licensee may sell, offer for sale, or furnish wine in a [package] container  
1987 not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.
- 1988 (ii) A retail licensee may sell, offer for sale, or furnish wine in a [package] container  
1989 not to exceed 750 milliliters at a price fixed by the commission to a table of less than four  
1990 persons.
- 1991 (3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original  
1992 [package] container at a price fixed by the commission, except that the original [package]  
1993 container may not exceed one liter.
- 1994 (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an  
1995 original [package] container at a price fixed by the commission, except that the original  
1996 [package] container may not exceed one liter.
- 1997 (5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish  
1998 beer for on-premise consumption:
- 1999 (i) in an open original [package] container; and  
2000 (ii) in a [package] container on draft.
- 2001 (b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):  
2002 (i) in a size of [package] container that exceeds two liters; or  
2003 (ii) to an individual patron in a size of [package] container that exceeds one liter.
- 2004 Section 30. Section **32B-5-307 (Effective 07/01/11)** is amended to read:  
2005 **32B-5-307 (Effective 07/01/11). Bringing onto or removing alcoholic product**  
2006 **from premises.**
- 2007 (1) Except as provided in Subsection (3):  
2008 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic  
2009 product for on-premise consumption.
- 2010 (b) A retail licensee may not allow a person to:  
2011 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

2012 (ii) consume an alcoholic product brought onto the licensed premises by a person other  
2013 than the retail licensee.

2014 (2) Except as provided in Subsection (3):

2015 (a) A person may not carry from a licensed premises of a retail licensee an open  
2016 ~~package~~ container that:

2017 (i) is used primarily for drinking purposes; and

2018 (ii) contains an alcoholic product.

2019 (b) A retail licensee may not permit a patron to carry from the licensed premises an  
2020 open ~~package~~ container described in Subsection (2)(a).

2021 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for  
2022 on-premise consumption if:

2023 (i) permitted by the retail licensee; and

2024 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

2025 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the  
2026 patron shall deliver the bottled wine to a server or other representative of the retail licensee  
2027 upon entering the licensed premises.

2028 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a  
2029 wine service for a bottled wine carried onto the licensed premises in accordance with this  
2030 Subsection (3).

2031 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle  
2032 of wine purchased in the licensed premises, or brought onto the licensed premises in  
2033 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

2034 Section 31. Section **32B-5-308 (Effective 07/01/11)** is amended to read:

2035 **32B-5-308 (Effective 07/01/11). Requirements on staff or others on premises --**

2036 **Employing a minor.**

2037 (1) Staff of a retail licensee, while on duty, may not:

2038 (a) consume an alcoholic product; or

2039 (b) be intoxicated.

2040 (2) (a) A retail licensee may not employ a minor to sell, offer for sale, furnish, or  
2041 dispense an alcoholic product.

2042 (b) Notwithstanding Subsection (2)(a), unless otherwise prohibited in the provisions

2043 related to the specific type of retail license, a retail licensee may employ a minor who is at least  
2044 16 years of age to enter the sale at a cash register or other sales recording device.

2045 Section 32. Section **32B-6-205 (Effective 07/01/11)** is amended to read:

2046 **32B-6-205 (Effective 07/01/11). Specific operational requirements for a**  
2047 **full-service restaurant license.**

2048 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
2049 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee  
2050 shall comply with this section.

2051 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
2052 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2053 (i) a full-service restaurant licensee;

2054 (ii) individual staff of a full-service restaurant licensee; or

2055 (iii) both a full-service restaurant licensee and staff of the full-service restaurant  
2056 licensee.

2057 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant  
2058 licensee shall display in a prominent place in the restaurant a list of the types and brand names  
2059 of liquor being furnished through the full-service restaurant licensee's calibrated metered  
2060 dispensing system.

2061 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee  
2062 shall store an alcoholic product in a storage area described in Subsection (12)(a).

2063 (4) (a) An individual who serves an alcoholic product in a full-service restaurant  
2064 licensee's premises shall make a written beverage tab for each table or group that orders or  
2065 consumes an alcoholic product on the premises.

2066 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an  
2067 alcoholic product ordered or consumed.

2068 (5) A person's willingness to serve an alcoholic product may not be made a condition  
2069 of employment as a server with a full-service restaurant licensee.

2070 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at  
2071 the licensed premises on any day during the period that:

2072 (i) begins at midnight; and

2073 (ii) ends at 11:59 a.m.

2074 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the  
2075 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer.

2076 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant  
2077 business from the sale of food, which does not include:

- 2078 (a) mix for an alcoholic product; or
- 2079 (b) a service charge.

2080 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an  
2081 alcoholic product except in connection with an order for food prepared, sold, and furnished at  
2082 the licensed premises.

2083 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate  
2084 culinary facilities for food preparation and dining accommodations.

2085 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have  
2086 more than two alcoholic products of any kind at a time before the patron.

2087 (b) A patron may not have more than one spirituous liquor drink at a time before the  
2088 patron.

2089 (c) An individual portion of wine is considered to be one alcoholic product under  
2090 Subsection (9)(a).

2091 (10) A patron may consume an alcoholic product only:

- 2092 (a) at:
  - 2093 (i) the patron's table;
  - 2094 (ii) a counter; or
  - 2095 (iii) a seating grandfathered bar structure; and
- 2096 (b) where food is served.

2097 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an  
2098 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar  
2099 structure that is not a seating grandfathered bar structure.

2100 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older  
2101 may:

- 2102 (i) sit;
- 2103 (ii) be furnished an alcoholic product; and
- 2104 (iii) consume an alcoholic product.

2105 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a  
2106 full-service restaurant licensee may not permit a minor to, and a minor may not:

2107 (i) sit; or

2108 (ii) consume food or beverages.

2109 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed  
2110 by a full-service restaurant licensee:

2111 (A) as provided in Subsection 32B-5-308(2); or

2112 (B) to perform maintenance and cleaning services during an hour when the full-service  
2113 restaurant licensee is not open for business.

2114 (ii) A minor may momentarily pass by a seating grandfathered bar structure without  
2115 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's  
2116 premises in which the minor is permitted to be.

2117 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee  
2118 may dispense an alcoholic product only if:

2119 (a) the alcoholic product is dispensed from:

2120 (i) a grandfathered bar structure;

2121 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at  
2122 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May  
2123 12, 2009; or

2124 (iii) an area that is:

2125 (A) separated from an area for the consumption of food by a patron by a solid, opaque,  
2126 permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic  
2127 product are:

2128 (I) not readily visible to a patron; and

2129 (II) not accessible by a patron; and

2130 (B) apart from an area used:

2131 (I) for dining;

2132 (II) for staging; or

2133 (III) as a lobby or waiting area;

2134 (b) the full-service restaurant licensee uses an alcoholic product that is:

2135 (i) stored in an area described in Subsection (12)(a); or

2136 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

2137 (A) immediately before the alcoholic product is dispensed it is in an unopened

2138 [package] container;

2139 (B) the unopened [package] container is taken to an area described in Subsection

2140 (12)(a) before it is opened; and

2141 (C) once opened, the [package] container is stored in an area described in Subsection

2142 (12)(a); and

2143 (c) any instrument or equipment used to dispense alcoholic product is located in an

2144 area described in Subsection (12)(a).

2145 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a

2146 charge or fee made in connection with the sale, service, or consumption of liquor including:

2147 (a) a set-up charge;

2148 (b) a service charge; or

2149 (c) a chilling fee.

2150 Section 33. Section **32B-6-305 (Effective 07/01/11)** is amended to read:

2151 **32B-6-305 (Effective 07/01/11). Specific operational requirements for a**

2152 **limited-service restaurant license.**

2153 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

2154 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant

2155 licensee shall comply with this section.

2156 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

2157 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2158 (i) a limited-service restaurant licensee;

2159 (ii) individual staff of a limited-service restaurant licensee; or

2160 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant

2161 licensee.

2162 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer

2163 for sale, furnish, or allow consumption of:

2164 (i) spirituous liquor; or

2165 (ii) a flavored malt beverage.

2166 (b) A product listed in Subsection (2)(a) may not be on the premises of a

2167 limited-service restaurant licensee except for use:

2168 (i) as a flavoring on a dessert; and

2169 (ii) in the preparation of a flaming food dish, drink, or dessert.

2170 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant

2171 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

2172 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant

2173 licensee's premises shall make a written beverage tab for each table or group that orders or

2174 consumes an alcoholic product on the premises.

2175 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an

2176 alcoholic product ordered or consumed.

2177 (5) A person's willingness to serve an alcoholic product may not be made a condition

2178 of employment as a server with a limited-service restaurant licensee.

2179 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine

2180 or heavy beer at the licensed premises on any day during the period that:

2181 (i) begins at midnight; and

2182 (ii) ends at 11:59 a.m.

2183 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during

2184 the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer.

2185 (7) A limited-service restaurant licensee shall maintain at least 70% of its total

2186 restaurant business from the sale of food, which does not include a service charge.

2187 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an

2188 alcoholic product except in connection with an order for food prepared, sold, and furnished at

2189 the licensed premises.

2190 (b) A limited-service restaurant licensee shall maintain on the licensed premises

2191 adequate culinary facilities for food preparation and dining accommodations.

2192 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have

2193 more than two alcoholic products of any kind at a time before the patron.

2194 (b) An individual portion of wine is considered to be one alcoholic product under

2195 Subsection (9)(a).

2196 (10) A patron may consume an alcoholic product only:

2197 (a) at:

2198 (i) the patron's table;  
2199 (ii) a counter; or  
2200 (iii) a seating grandfathered bar structure; and  
2201 (b) where food is served.  
2202 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an  
2203 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar  
2204 structure that is not a seating grandfathered bar structure.  
2205 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older  
2206 may:  
2207 (i) sit;  
2208 (ii) be furnished an alcoholic product; and  
2209 (iii) consume an alcoholic product.  
2210 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a  
2211 limited-service restaurant licensee may not permit a minor to, and a minor may not:  
2212 (i) sit; or  
2213 (ii) consume food or beverages.  
2214 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed  
2215 by a limited-service restaurant licensee:  
2216 (A) as provided in Subsection 32B-5-308(2); or  
2217 (B) to perform maintenance and cleaning services during an hour when the  
2218 limited-service restaurant licensee is not open for business.  
2219 (ii) A minor may momentarily pass by a seating grandfathered bar structure without  
2220 remaining or sitting at the bar structure en route to an area of a limited-service restaurant  
2221 licensee's premises in which the minor is permitted to be.  
2222 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant  
2223 licensee may dispense an alcoholic product only if:  
2224 (a) the alcoholic product is dispensed from:  
2225 (i) a grandfathered bar structure;  
2226 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at  
2227 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May  
2228 12, 2009; or

- 2229 (iii) an area that is:
- 2230 (A) separated from an area for the consumption of food by a patron by a solid, opaque,
- 2231 permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic
- 2232 product are:
- 2233 (I) not readily visible to a patron; and
- 2234 (II) not accessible by a patron; and
- 2235 (B) apart from an area used:
- 2236 (I) for dining;
- 2237 (II) for staging; or
- 2238 (III) as a lobby or waiting area;
- 2239 (b) the limited-service restaurant licensee uses an alcoholic product that is:
- 2240 (i) stored in an area described in Subsection (12)(a); or
- 2241 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
- 2242 (A) immediately before the alcoholic product is dispensed it is in an unopened
- 2243 [package] container;
- 2244 (B) the unopened [package] container is taken to an area described in Subsection
- 2245 (12)(a) before it is opened; and
- 2246 (C) once opened, the [package] container is stored in an area described in Subsection
- 2247 (12)(a); and
- 2248 (c) any instrument or equipment used to dispense alcoholic product is located in an
- 2249 area described in Subsection (12)(a).
- 2250 (13) A limited-service restaurant licensee may state in a food or alcoholic product
- 2251 menu a charge or fee made in connection with the sale, service, or consumption of wine or
- 2252 heavy beer including:
- 2253 (a) a set-up charge;
- 2254 (b) a service charge; or
- 2255 (c) a chilling fee.
- 2256 Section 34. Section **32B-6-405 (Effective 07/01/11)** is amended to read:
- 2257 **32B-6-405 (Effective 07/01/11). Specific licensing requirements for club license.**
- 2258 (1) To obtain a club license, in addition to complying with Chapter 5, Part 2, Retail
- 2259 Licensing Process, a person shall submit with the written application:

- 2260 (a) (i) a statement as to whether the person is seeking to qualify as:  
2261 (A) an equity club licensee;  
2262 (B) a fraternal club licensee;  
2263 (C) a dining club licensee; or  
2264 (D) a social club licensee; and  
2265 (ii) evidence that the person meets the requirements for the type of club license for  
2266 which the person is applying;  
2267 (b) evidence that the person operates club premises where a variety of food is prepared  
2268 and served in connection with dining accommodations; and  
2269 (c) if the person is applying for an equity club license or fraternal club license, a copy  
2270 of the club's bylaws or house rules, and an amendment to those records.  
2271 (2) The commission may refuse to issue a club license to a person for an equity club  
2272 license or fraternal club license if the commission determines that a provision of the person's  
2273 bylaws or house rules, or amendments to those records is not:  
2274 (a) reasonable; and  
2275 (b) consistent with:  
2276 (i) the declared nature and purpose of the club licensee; and  
2277 (ii) the purposes of this part.  
2278 (3) (a) A club license expires on June 30 of each year.  
2279 (b) To renew a club license, a person shall comply with the requirements of Chapter 5,  
2280 Part 2, Retail Licensing Process, by no later than May 31.  
2281 (4) (a) The nonrefundable application fee for a club license is \$250.  
2282 (b) The initial license fee for a club license is \$2,500.  
2283 (c) The renewal fee for a club license is \$1,600.  
2284 (5) The bond amount required for a [~~full-service restaurant~~] club license is the penal  
2285 sum of \$10,000.

2286 Section 35. Section **32B-6-605 (Effective 07/01/11)** is amended to read:

2287 **32B-6-605 (Effective 07/01/11). Specific operational requirements for on-premise**  
2288 **banquet license.**

- 2289 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
2290 Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee

2291 shall comply with this section.

2292 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
2293 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2294 (i) an on-premise banquet licensee;

2295 (ii) individual staff of an on-premise banquet licensee; or

2296 (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

2297 (2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and  
2298 (5) for the entire premises of the hotel, resort facility, sports center, or convention center that is  
2299 the basis for the on-premise banquet license.

2300 (3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee  
2301 shall provide the department with advance notice of a scheduled banquet in accordance with  
2302 rules made by the commission.

2303 (b) Any of the following may conduct a random inspection of a banquet:

2304 (i) an authorized representative of the commission or the department; or

2305 (ii) a law enforcement officer.

2306 (4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall  
2307 make and maintain the records the commission or department requires.

2308 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
2309 accordance with this Subsection (4).

2310 (5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may  
2311 sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the  
2312 location of the banquet.

2313 (b) A host of a banquet, a patron, or a person other than the on-premise banquet  
2314 licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from  
2315 the premises of the banquet.

2316 (c) Notwithstanding Section 32B-5-307, a patron at a banquet may not bring an  
2317 alcoholic product into or onto, or remove an alcoholic product from the premises of a banquet.

2318 (6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at  
2319 the banquet following the conclusion of the banquet.

2320 (b) At the conclusion of a banquet, an on-premise banquet licensee shall:

2321 (i) destroy an opened and unused alcoholic product that is not saleable, under

2322 conditions established by the department; and

2323 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2324 (A) opened and unused alcoholic product that is saleable; and

2325 (B) unopened [~~package~~] container of an alcoholic product.

2326 (c) Except as provided in Subsection (6)(b) with regard to an open or sealed [~~package~~]

2327 container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet

2328 licensee:

2329 (i) shall store the alcoholic product in the on-premise banquet licensee's approved

2330 locked storage area; and

2331 (ii) may use the alcoholic product at more than one banquet.

2332 (7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not

2333 employ a minor to sell, furnish, or dispense an alcoholic product in connection with the

2334 on-premise banquet licensee's banquet and room service activities.

2335 (8) An on-premise banquet licensee may not sell, offer for sale, or furnish an alcoholic

2336 product at a banquet or in connection with room service any day during a period that:

2337 (a) begins at 1 a.m.; and

2338 (b) ends at 9:59 a.m.

2339 (9) An on-premise banquet licensee shall maintain at least 50% of its total annual

2340 banquet gross receipts from the sale of food, not including:

2341 (a) mix for an alcoholic product; and

2342 (b) a charge in connection with the furnishing of an alcoholic product.

2343 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have

2344 more than two alcoholic products of any kind at a time before the patron.

2345 (b) A patron may not have more than one spirituous liquor drink at a time before the

2346 patron.

2347 (c) An individual portion of wine is considered to be one alcoholic product under

2348 Subsection (10)(a).

2349 (11) (a) An on-premise banquet licensee shall supervise and direct a person involved in

2350 the sale, offer for sale, or furnishing of an alcoholic product.

2351 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product

2352 shall complete an alcohol training and education seminar.

2353 (12) A staff person of an on-premise banquet licensee shall remain at the banquet at all  
2354 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the  
2355 banquet.

2356 (13) (a) Room service of an alcoholic product to a guest room of a hotel or resort  
2357 facility shall be provided in person by staff of an on-premise banquet licensee only to an adult  
2358 guest in the guest room.

2359 (b) An alcoholic product may not be left outside a guest room for retrieval by a guest.

2360 (c) An on-premise banquet licensee may only provide an alcoholic product for room  
2361 service in a sealed [~~package~~] container.

2362 Section 36. Section **32B-6-706 (Effective 07/01/11)** is amended to read:

2363 **32B-6-706 (Effective 07/01/11). Specific operational requirements for on-premise**  
2364 **beer retailer license.**

2365 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
2366 Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply  
2367 with this section.

2368 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
2369 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2370 (i) an on-premise beer retailer;

2371 (ii) individual staff of an on-premise beer retailer; or

2372 (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

2373 (2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make  
2374 and maintain the records the department requires.

2375 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
2376 accordance with this Subsection (2).

2377 (3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or  
2378 sell liquor on its licensed premises.

2379 (4) Beer sold in a sealed [~~package~~] container by an on-premise beer retailer may be  
2380 removed from the on-premise beer retailer premises in the sealed [~~package~~] container.

2381 (5) (a) Only an on-premise beer retailer that operates as a tavern is subject to  
2382 Subsection 32B-5-309(1).

2383 (b) An on-premise beer retailer is subject to Subsections 32B-5-309(2) and (3)

2384 regardless of whether it operates as a tavern.

2385 (6) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its  
2386 licensed premises during a period that:

2387 (i) begins at 1 a.m.; and

2388 (ii) ends at 9:59 a.m.

2389 (b) (i) Notwithstanding Subsection (5)(a), a tavern shall remain open for one hour after  
2390 the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may  
2391 finish consuming a single serving of beer not exceeding 26 ounces.

2392 (ii) A tavern is not required to remain open:

2393 (A) after all patrons have vacated the premises; or

2394 (B) during an emergency.

2395 (c) A tavern may not allow a patron to remain on the licensed premises to consume  
2396 beer on the licensed premises during a period that:

2397 (i) begins at 2 a.m.; and

2398 (ii) ends at 9:59 a.m.

2399 (7) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a  
2400 tavern.

2401 (8) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the  
2402 purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases  
2403 from:

2404 (A) a beer wholesaler licensee; or

2405 (B) a small brewer that manufactures the beer.

2406 (ii) Violation of Subsection (8)(a) is a class A misdemeanor.

2407 (b) (i) If an on-premise beer retailer purchases beer under this Subsection (8) from a  
2408 beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer  
2409 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area  
2410 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by  
2411 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

2412 (ii) Violation of Subsection (8)(b)(i) is a class B misdemeanor.

2413 Section 37. Section **32B-7-202 (Effective 07/01/11)** is amended to read:

2414 **32B-7-202 (Effective 07/01/11). General operational requirements for off-premise**

2415 **beer retailer.**

2416 (1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply  
2417 with this section.

2418 (b) Failure to comply with this section may result in a suspension or revocation of a  
2419 local license.

2420 (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the  
2421 purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases  
2422 from:

2423 (A) a beer wholesaler licensee; or

2424 (B) a small brewer that manufactures the beer.

2425 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

2426 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a  
2427 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer  
2428 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area  
2429 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by  
2430 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

2431 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.

2432 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a  
2433 [package] container larger than two liters.

2434 (4) A minor may not sell beer on the licensed premises of an off-premise beer retailer  
2435 unless:

2436 (a) the sale is done under the supervision of a person 21 years of age or older who is on  
2437 the licensed premises; and

2438 (b) the minor is at least 16 years of age.

2439 (5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer  
2440 retailer shall:

2441 (i) display beer sold by the off-premise beer retailer in an area that is visibly separate  
2442 and distinct from the area where nonalcoholic beverages are displayed; and

2443 (ii) display a sign in the area described in Subsection (5)(a)(i) that:

2444 (A) is prominent;

2445 (B) is easily readable by a consumer;

2446 (C) meets the requirements for format established by the commission by rule; and  
2447 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain  
2448 alcohol. Please read the label carefully."

2449 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with beer  
2450 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

2451 (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is  
2452 labeled, packaged, or advertised as:

- 2453 (i) a malt cooler; or
- 2454 (ii) a beverage that may provide energy.

2455 (d) The commission shall define by rule what constitutes an "area that is visibly  
2456 separate and distinct from the area where a nonalcoholic beverage is displayed."

2457 (e) A violation of this Subsection (5) is an infraction.

2458 (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or  
2459 who sells beer to a patron for consumption off the premises of the off-premise beer retailer  
2460 shall wear a unique identification badge:

- 2461 (i) on the front of the staff's clothing;
- 2462 (ii) visible above the waist;
- 2463 (iii) bearing the staff's:

2464 (A) first or last name;

2465 (B) initials; or

2466 (C) unique identification in letters or numbers; and

2467 (iv) with the number or letters on the unique identification badge being sufficiently  
2468 large to be clearly visible and identifiable while engaging in or directly supervising the retail  
2469 sale of beer.

2470 (b) An off-premise beer retailer shall make and maintain a record of each current staff's  
2471 unique identification badge assigned by the off-premise beer retailer that includes the staff's:

2472 (i) full name;

2473 (ii) address; and

2474 (iii) (A) driver license number; or

2475 (B) similar identification number.

2476 (c) An off-premise beer retailer shall make available a record required to be made or

2477 maintained under this Subsection (6) for immediate inspection by:

2478 (i) a peace officer; or

2479 (ii) a representative of the local authority that issues the off-premise beer retailer  
2480 license.

2481 (d) A local authority may impose a fine of up to \$250 against an off-premise beer  
2482 retailer that does not comply or require its staff to comply with this Subsection (6).

2483 Section 38. Section **32B-8-401 (Effective 07/01/11)** is amended to read:

2484 **32B-8-401 (Effective 07/01/11). Specific operational requirements for resort**  
2485 **license.**

2486 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
2487 Requirements, a resort licensee, staff of the resort licensee, and a person otherwise operating  
2488 under a sublicense shall comply with this section.

2489 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)  
2490 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and  
2491 Enforcement Act, against:

2492 (i) a resort licensee;

2493 (ii) individual staff of a resort licensee;

2494 (iii) a person otherwise operating under a sublicense;

2495 (iv) individual staff of a person otherwise operating under a sublicense; or

2496 (v) any combination of the persons listed in this Subsection (1)(b).

2497 (2) (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product  
2498 except:

2499 (i) on a sublicense premises;

2500 (ii) pursuant to a permit issued under this title; or

2501 (iii) under a package agency agreement with the department, subject to Chapter 2, Part  
2502 6, Package Agency.

2503 (b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as  
2504 provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:

2505 (i) if on a sublicense premises, in accordance with the operational requirements under  
2506 the provisions applicable to the sublicense, except as provided in Section 32B-8-402;

2507 (ii) if under a permit issued under this title, in accordance with the operational

2508 requirements under the provisions applicable to the permit; and

2509 (iii) if as a package agency, in accordance with the contract with the department and  
2510 Chapter 2, Part 6, Package Agency.

2511 (3) A resort licensee shall comply with Subsections 32B-5-301(4) and (5) within the  
2512 boundary of the resort building.

2513 (4) (a) Subject to Subsection (4)(b), a resort licensee shall operate in a manner so that  
2514 at least 70% of the annual aggregate of the gross receipts related to the sale of food or  
2515 beverages for the resort license and each of its sublicenses is from the sale of food, not  
2516 including:

2517 (i) mix for an alcoholic product; and

2518 (ii) a charge in connection with the service of an alcoholic product.

2519 (b) In calculating the annual aggregate of the gross receipts described in Subsection  
2520 (4)(a), a resort licensee is not required to include in the calculation money from the sale of a  
2521 bottle of wine by the resort licensee or under a sublicense in excess of \$250.

2522 (5) (a) A resort licensee shall supervise and direct a person involved in the sale, offer  
2523 for sale, or furnishing of an alcoholic product under a resort license.

2524 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product  
2525 under a resort license shall complete the alcohol training and education seminar.

2526 (6) (a) Room service of an alcoholic product to a lodging accommodation of a resort  
2527 licensee shall be provided in person by staff of a resort licensee only to an adult occupant in the  
2528 lodging accommodation.

2529 (b) An alcoholic product may not be left outside a lodging accommodation for retrieval  
2530 by an occupant.

2531 (c) A resort licensee may only provide an alcoholic product for room service in a  
2532 sealed [~~package~~] container.

2533 Section 39. Section **32B-9-204 (Effective 07/01/11)** is amended to read:

2534 **32B-9-204 (Effective 07/01/11). General operational requirements for an event**  
2535 **permit.**

2536 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or  
2537 furnishing of an alcoholic product at an event for which an event permit is issued, shall comply  
2538 with this title and rules of the commission.

- 2539 (b) Failure to comply as provided in Subsection (1)(a):  
2540 (i) may result in:  
2541 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and  
2542 Enforcement Act, against:  
2543 (I) an event permittee;  
2544 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic  
2545 product at the event; or  
2546 (III) any combination of the persons listed in this Subsection (1)(b);  
2547 (B) immediate revocation of the event permit;  
2548 (C) forfeiture of a bond; or  
2549 (D) immediate seizure of an alcoholic product present at the event; and  
2550 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an  
2551 event permit for a period of three years from the date of revocation of the event permit.  
2552 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event  
2553 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.  
2554 (2) (a) If there is a conflict between this part and the relevant part under this chapter for  
2555 the specific type of special use permit held by the special use permittee, the relevant part  
2556 governs.  
2557 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an  
2558 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the  
2559 relevant part under this chapter for the type of event permit that is held by the event permittee.  
2560 (c) Notwithstanding that this part or the relevant part under this chapter for the type of  
2561 event permit held by an event permittee refers to "event permittee," a person involved in the  
2562 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the  
2563 event permit is issued is subject to the same requirement or prohibition.  
2564 (3) An event permittee shall display a copy of the event permit in a prominent place in  
2565 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.  
2566 (4) An event permittee may not on the premises of the event:  
2567 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,  
2568 Chapter 10, Part 11, Gambling;  
2569 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,

2570 Part 11, Gambling; or

2571 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
2572 the risking of something of value for a return or for an outcome when the return or outcome is  
2573 based upon an element of chance, excluding the playing of an amusement device that confers  
2574 only an immediate and unrecorded right of replay not exchangeable for value.

2575 (5) An event permittee may not knowingly allow a person at an event to, in violation of  
2576 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug  
2577 Paraphernalia Act:

2578 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
2579 58-37-2; or

2580 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2581 Section 58-37a-3.

2582 (6) An event permittee may not sell, offer for sale, or furnish beer except beer  
2583 purchases from:

2584 (a) a beer wholesaler licensee;

2585 (b) a beer retailer; or

2586 (c) a small brewer.

2587 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the  
2588 consumption of an alcoholic product purchased for an event in a location other than that  
2589 described in the application and designated on the event permit unless the event permittee first  
2590 applies for and receives approval from the commission for a change of location.

2591 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or  
2592 furnish beer for on-premise consumption:

2593 (i) in an open original [~~package~~] container; and

2594 (ii) in a [~~package~~] container on draft.

2595 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to  
2596 Subsection (8)(a):

2597 (i) in a size of [~~package~~] container that exceeds two liters; or

2598 (ii) to an individual patron in a size of [~~package~~] container that exceeds one liter.

2599 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less  
2600 than the cost of the alcoholic product to the event permittee.

2601 (b) An event permittee may not sell or offer for sale an alcoholic product at a price that  
2602 encourages over consumption or intoxication.

2603 (c) An event permittee may not sell or offer for sale an alcoholic product at a special or  
2604 reduced price for only certain hours of the day of an event.

2605 (d) An event permittee may not sell, offer for sale, or furnish more than one alcoholic  
2606 product at the price of a single alcoholic product.

2607 (e) An event permittee may not engage in a public promotion involving or offering a  
2608 free alcoholic product to the general public.

2609 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

2610 (a) a minor;

2611 (b) a person actually, apparently, or obviously intoxicated;

2612 (c) a known interdicted person; or

2613 (d) a known habitual drunkard.

2614 (11) (a) An alcoholic product is considered under the control of the event permittee  
2615 during an event.

2616 (b) A patron at an event may not bring an alcoholic product onto the premises of the  
2617 event.

2618 (12) An event permittee may not permit a patron to carry from the premises an open  
2619 ~~[package]~~ container that:

2620 (a) is used primarily for drinking purposes; and

2621 (b) contains an alcoholic product.

2622 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at  
2623 an event is considered under the supervision and direction of the event permittee.

2624 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at  
2625 an event may not, while on duty:

2626 (i) consume an alcoholic product; or

2627 (ii) be intoxicated.

2628 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an  
2629 event.

2630 (15) The location specified in an event permit may not be changed without prior  
2631 written approval of the commission.

2632 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or  
2633 attempt in any way to dispose of the event permit to another person whether for monetary gain  
2634 or not.

2635 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the  
2636 consumption of an alcoholic product during a period that:

2637 (i) begins at 1 a.m.; and

2638 (ii) ends at 9:59 a.m.

2639 (b) This Subsection (17) does not preclude a local authority from being more restrictive  
2640 with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic  
2641 product at an event.

2642 (18) A patron may have no more than one alcoholic product of any kind at a time  
2643 before the patron.

2644 Section 40. Section **32B-9-302 (Effective 07/01/11)** is amended to read:

2645 **32B-9-302 (Effective 07/01/11). Definitions.**

2646 As used in this [chapter] part:

2647 (1) "120 hour single event permit" means a single event permit that authorizes under  
2648 this part the storage, sale, offering for sale, furnishing, and consumption of liquor for a period  
2649 not to exceed 120 consecutive hours.

2650 (2) "72 hour single event permit" means a single event permit that authorizes under this  
2651 part the storage, sale, offering for sale, furnishing, and consumption of liquor for a period not  
2652 to exceed 72 consecutive hours.

2653 (3) "Single event permit" means:

2654 (a) a 120 hour single event permit; and

2655 (b) a 72 hour single event permit.

2656 Section 41. Section **32B-9-305 (Effective 07/01/11)** is amended to read:

2657 **32B-9-305 (Effective 07/01/11). Specific operational requirements for single event**  
2658 **permit.**

2659 (1) (a) In addition to complying with Section 32B-9-204, a single event permittee or a  
2660 person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the  
2661 event shall comply with this section.

2662 (b) Failure to comply as provided in Subsection (1)(a):

- 2663 (i) may result in:
- 2664 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
- 2665 Enforcement Act, against:
- 2666 (I) a single event permittee;
- 2667 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
- 2668 product at the event; or
- 2669 (III) any combination of persons listed in this Subsection (1)(b);
- 2670 (B) immediate revocation of the single event permit;
- 2671 (C) forfeiture of a bond; or
- 2672 (D) immediate seizure of an alcoholic product present at the event; and
- 2673 (ii) if the single event permit is revoked, disqualifies the single event permittee from
- 2674 applying for a single event permit or temporary beer event permit for a period of three years
- 2675 from the date of revocation of the single event permit.
- 2676 (c) An alcoholic product seized under this Subsection (1) shall be returned to the single
- 2677 event permittee after an event if forfeiture proceedings are not instituted under Section
- 2678 32B-4-206.
- 2679 (2) (a) A single event permittee shall make and maintain an expense and revenue
- 2680 ledger or record showing:
- 2681 (i) expenditures made for:
- 2682 (A) liquor;
- 2683 (B) beer;
- 2684 (C) set-ups; and
- 2685 (D) an ingredient or component of an alcoholic product other than a set-up; and
- 2686 (ii) the revenue from the sale of an alcoholic product.
- 2687 (b) Section 32B-1-205 applies to a record required to be made or maintained in
- 2688 accordance with this Subsection (2).
- 2689 (3) A single event permittee shall purchase liquor stored, sold, offered for sale,
- 2690 furnished, or consumed at an event from a state store or package agency.
- 2691 (4) (a) A single event permittee may not sell, offer for sale, or furnish a primary
- 2692 spirituous liquor in a quantity that exceeds 1.5 ounces per beverage, except that additional
- 2693 spirituous liquor may be used in a beverage if:

- 2694 (i) used as a secondary flavoring ingredient;
- 2695 (ii) used in conjunction with the primary spirituous liquor;
- 2696 (iii) the secondary ingredient is not the only spirituous liquor in the beverage;
- 2697 (iv) a patron has no more than 2.5 ounces of spirituous liquor at a time before the
- 2698 patron; and
- 2699 (v) a patron has no more than one spirituous liquor drink at a time before the patron.
- 2700 (b) Spirituous liquor need not be dispensed through a calibrated metered dispensing
- 2701 system.
- 2702 (5) (a) A single event permittee may sell, offer for sale, or furnish wine by the glass or
- 2703 an individual portion, except that a glass or individual portion may not exceed five ounces.
- 2704 (b) A single event permittee may furnish an individual portion served to a patron in
- 2705 more than one glass if the total amount of wine does not exceed five ounces.
- 2706 (c) An individual portion of wine is considered to be one alcoholic product under
- 2707 Subsection 32B-9-204(12).
- 2708 (d) A single event permittee may sell, offer for sale, or furnish wine in a [~~package~~]
- 2709 container not exceeding 1.5 liters at a price fixed by the commission.
- 2710 (6) A single event permittee may sell, offer for sale, or furnish heavy beer in an original
- 2711 [~~package~~] container at a price fixed by the commission, except that the original [~~package~~]
- 2712 container may not exceed one liter.
- 2713 (7) A single event permittee may sell, offer for sale, or furnish a flavored malt beverage
- 2714 in an original [~~package~~] container at a price fixed by the commission, except that the original
- 2715 [~~package~~] container may not exceed one liter.
- 2716 (8) (a) A single event permittee may sell liquor only at a price fixed by the
- 2717 commission.
- 2718 (b) A single event permittee may not sell liquor at a discount price on any date or at
- 2719 any time.
- 2720 (9) A single event permittee may perform a service and assess a service charge as
- 2721 authorized by commission rule for liquor purchased at an event.
- 2722 Section 42. Section **32B-10-404 (Effective 07/01/11)** is amended to read:
- 2723 **32B-10-404 (Effective 07/01/11). Specific operational requirements for industrial**
- 2724 **or manufacturing use permit.**

2725 (1) (a) In addition to complying with Section 32B-10-206, an industrial or  
2726 manufacturing use permittee and staff of the industrial or manufacturing use permittee shall  
2727 comply with this section.

2728 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
2729 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2730 (i) an industrial or manufacturing use permittee;

2731 (ii) individual staff of an industrial or manufacturing use permittee; or

2732 (iii) an industrial or manufacturing use permittee and staff of the industrial or  
2733 manufacturing use permittee.

2734 (2) An industrial or manufacturing use permittee may produce for lawful use and sale  
2735 the following:

2736 (a) vinegar;

2737 (b) preserved nonintoxicating cider;

2738 (c) a food preparation;

2739 (d) a United States Pharmacopoeia or national formulary preparation in conformity  
2740 with Title 58, Chapters 17b, 37, 37a, 37b, and 37c, if the preparation:

2741 (i) conforms to standards established by:

2742 (A) the Department of Agriculture and Food; and

2743 (B) the Department of Health; and

2744 (ii) contains no more alcohol than is necessary to preserve or extract the medicinal,  
2745 flavoring, or perfumed properties of the treated substances; and

2746 (e) wood and denatured alcohol if manufactured in compliance with the formulas and  
2747 regulations under Title 27, C.F.R. Parts 19, 20, and 21.

2748 (3) (a) An industrial or manufacturing use permittee that produces patent or proprietary  
2749 medicines containing alcohol may sell or offer for sale the medicines in the original and  
2750 unbroken [~~package~~] container if the medicine contains sufficient medication to prevent its use  
2751 as an alcoholic product.

2752 (b) An industrial or manufacturing use permittee described in this Subsection (3) shall,  
2753 upon request by the department, provide a sufficient sample of the medicine to enable the  
2754 department to have the medicine analyzed for purposes of this section.

2755 Section 43. Section **32B-11-608 (Effective 07/01/11)** is amended to read:

2756 **32B-11-608 (Effective 07/01/11). Operational requirements for local industry**  
2757 **representative license.**

2758 (1) (a) A local industry representative licensee, staff of the local industry representative  
2759 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the  
2760 state, shall comply with this title and rules of the commission.

2761 (b) If a person knowingly violates Subsection (1)(a):

2762 (i) the violation may result in disciplinary action in accordance with Chapter 3,  
2763 Disciplinary Actions and Enforcement Act, against:

2764 (A) a local industry representative licensee;

2765 (B) individual staff of a local industry representative licensee; or

2766 (C) both a local industry representative licensee and staff of the local industry  
2767 representative licensee; and

2768 (ii) if the conditions of Subsection (1)(c) are met, the commission may order:

2769 (A) the removal of the manufacturer's, supplier's, or importer's products from the  
2770 department's sales list; and

2771 (B) a suspension of the department's purchase of those products for a period  
2772 determined by the commission.

2773 (c) Subsection (1)(b)(ii) applies if the manufacturer, supplier, or importer:

2774 (i) directly commits the violation; or

2775 (ii) solicits, requests, commands, encourages, or intentionally aides another to engage  
2776 in the violation.

2777 (2) A local industry representative licensee shall display its license in the local industry  
2778 representative licensee's principal place of business.

2779 (3) (a) A local industry representative licensee shall maintain on file with the  
2780 department a current accounts list of the names and addresses of the manufacturers, suppliers,  
2781 and importers the local industry representative licensee represents.

2782 (b) A local industry representative licensee shall notify the department in writing of a  
2783 change to its accounts list within 14 days from the date the local industry representative  
2784 licensee:

2785 (i) acquires the account of a manufacturer, supplier, or importer; or

2786 (ii) loses the account of a manufacturer, supplier, or importer.

2787 (4) (a) A local industry representative licensee shall make and maintain the records the  
2788 department requires for at least three years.

2789 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
2790 accordance with this Subsection (4).

2791 (5) Staff of a local industry representative licensee may not be:

2792 (a) a retail licensee that sells, offers for sale, or furnishes liquor;

2793 (b) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or

2794 (c) a minor.

2795 (6) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,  
2796 give, or attempt in any way to dispose of the license to another person, whether for monetary  
2797 gain or not.

2798 (b) A local industry representative license has no monetary value for any type of  
2799 disposition.

2800 (7) A local industry representative licensee, staff of the local industry representative  
2801 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the  
2802 state:

2803 (a) only to the extent authorized by Chapter 4, Criminal Offenses and Procedure Act,  
2804 may:

2805 (i) assist the department in:

2806 (A) ordering, shipping, and delivering merchandise;

2807 (B) providing new product notification;

2808 (C) obtaining listing and delisting information;

2809 (D) receiving price quotations;

2810 (E) providing product sales analysis;

2811 (F) conducting shelf management; and

2812 (G) conducting educational seminars; and

2813 (ii) to acquire new listings:

2814 (A) solicit orders from the department; and

2815 (B) submit to the department price lists and samples of the products of the  
2816 manufacturer, supplier, or importer;

2817 (b) may not sell liquor within the state except to:

- 2818 (i) the department; and
- 2819 (ii) a military installation;
- 2820 (c) may not ship or transport, or cause to be shipped or transported, liquor into this
- 2821 state or from one place to another within this state;
- 2822 (d) may not sell or furnish any liquor to any person within this state other than to:
- 2823 (i) the department; or
- 2824 (ii) a military installation;
- 2825 (e) except as otherwise provided, may not advertise a product the local industry
- 2826 representative licensee represents in violation of this title or any other federal or state law;
- 2827 (f) shall comply with the trade practices provided in Chapter 4, Part 7, Trade Practices
- 2828 Act; and
- 2829 (g) may only provide a sample of a product of the manufacturer, supplier, or importer
- 2830 for tasting and sampling purposes as provided in Section 32B-4-705 by the department.
- 2831 (8) A local industry representative licensee may, to become educated as to the quality
- 2832 and characteristics of a liquor that the licensee represents, taste and analyze an industry
- 2833 representative sample under the conditions listed in this Subsection (8).
- 2834 (a) A local industry representative licensee may not receive more than two industry
- 2835 representative samples of a particular type, vintage, and production lot of a particular branded
- 2836 product within a consecutive 120-day period.
- 2837 (b) (i) An industry representative sample of liquor may not exceed one liter.
- 2838 (ii) Notwithstanding Subsection (8)(b)(i), an industry representative sample of the
- 2839 following may not exceed 1.5 liters unless that exact product is only commercially packaged in
- 2840 a larger size, not to exceed 5 liters:
- 2841 (A) wine;
- 2842 (B) heavy beer; or
- 2843 (C) a flavored malt beverage.
- 2844 (c) An industry representative sample may only be of a product not presently listed on
- 2845 the department's sales list.
- 2846 (d) (i) An industry representative sample shall be shipped:
- 2847 (A) prepaid by the manufacturer, supplier, or importer;
- 2848 (B) by common carrier and not via United States mail; and

- 2849 (C) directly to the department's central administrative warehouse office.
- 2850 (ii) An industry representative sample may not be shipped to any other location within  
2851 the state.
- 2852 (e) An industry representative sample shall be accompanied by a letter from the  
2853 manufacturer, supplier, or importer:
- 2854 (i) clearly identifying the product as an "industry representative sample"; and  
2855 (ii) clearly stating:
- 2856 (A) the FOB case price of the product; and  
2857 (B) the name of the local industry representative for whom it is intended.
- 2858 (f) The department shall assess a reasonable handling, labeling, and storage fee for  
2859 each industry representative sample received.
- 2860 (g) The department shall affix to a [~~package~~] container a label clearly identifying the  
2861 product as an "industry representative sample."
- 2862 (h) The department shall:
- 2863 (i) account for and record each industry representative sample received;  
2864 (ii) account for the industry representative sample's disposition; and  
2865 (iii) maintain a record of the industry representative sample and its disposition for a  
2866 two-year period.
- 2867 (i) An industry representative sample may not leave the premises of the department's  
2868 central administrative warehouse office.
- 2869 (j) A local industry representative licensee's and a local industry representative  
2870 licensee's staff may, at regularly scheduled days and times established by the department, taste  
2871 and analyze one or more industry representative samples on the premises of the department's  
2872 central administrative warehouse office.
- 2873 (k) The department shall destroy the unused contents of an opened product remaining  
2874 after a product is sampled under controlled and audited conditions established by the  
2875 department.
- 2876 (l) An industry representative sample that is not tasted within 30 days of receipt by the  
2877 department shall be disposed of at the discretion of the department in one of the following  
2878 ways:
- 2879 (i) the contents destroyed under controlled and audited conditions established by the

2880 department; or

2881 (ii) added to the inventory of the department for sale to the public.

2882 Section 44. **Effective date.**

2883 This bill takes effect on July 1, 2011.

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**Legislative Review Note**  
**as of 10-4-10 4:03 PM**

**Office of Legislative Research and General Counsel**